

STATE OF CALIFORNIA

MEETING OF THE
CALIFORNIA INSPECTION & MAINTENANCE REVIEW COMMITTEE

Webcast

Tuesday, October 26, 2004

California Air Resources Board

1001 I Street, Second Floor

Central Valley Auditorium

Sacramento, California

MEMBERS PRESENT:

VICTOR WEISSER, CHAIR
TYRONE BUCKLEY
JOHN HISSERICH
BRUCE HOTCHKISS
JUDITH LAMARE
ROBERT PEARMAN
JEFFREY WILLIAMS

ALSO PRESENT:

ROCKY CARLISLE, Executive Officer
LYNN FORSYTH, Administrative Staff

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P R O C E E D I N G S

CHAIR WEISSER: Okay. Ladies and gentlemen. We will bring the Tuesday, October 26th, 2004 meeting of the Inspection and Maintenance Review Committee to order.

Thank you for taking time out of your busy schedules, both members of the committee and members of the audience, to join us. Today, we're going to be spending the bulk of your time on reviewing the draft recommendations of many, if not all, of the working groups that we've formed. We're not going to spend a lot of time on the editing process. I think we're best served by having a robust discussion over the draft recommendations that the working groups are coming up with, and that will help us move toward the refinement of those recommendations and the development of a consistent editorial style so that in our next meeting what have what will represent, I think, Rocky, a final draft of our report. That's our intention.

We have some other business that we're going to be doing today, but first let's introduce ourselves to both the folks in the audience and the people who are listening in via the Internet. Rocky will describe in a moment how folks who are listening in from afar can participate in this session.

First let me introduce myself. I'm Vic Weisser. I'm the Chair of this committee. We'll start from the far left. No political

assumptions being made there, John, but would you introduce yourself?

MEMBER HISSERICH: My name is John Hisserich, and I'm from Southern, California. Governor's appointee.

MEMBER LAMARE: Jude Lamare from Sacramento. Appointed by Senate Rules.

MEMBER PEARMAN: Robert Pearman, Southern California, public member, gubernatorial appointee.

MEMBER WILLIAMS: I'm Jeffrey Williams, a gubernatorial appointee and public member.

MEMBER HOTCHKISS: I'm Bruce Hotchkiss. I was appointed by a former speaker of the Assembly.

CHAIR WEISSER: And walking down the auditorium steps and up to the podium is our last member who will be able to be present today, Tyrone Buckley. Tyrone, welcome.

MEMBER BUCKLEY: Sorry I'm late.

CHAIR WEISSER: You're just in time.

— o0o —

Our first order of business now that we do have a quorum will be the review and approval of the minutes for our last meeting, which was September 28th. The committee and those in the audience who have time on their hands to try to review transcripts will be aware that we had a transcribing problem, that I would say with the effort of our staff and of the

transcriber, we were able to patch together a transcript fully reflective of the meeting based upon the video recording of the meeting, so I should warn people up on the dais particularly that these meetings are videotaped while we're talking, so please refrain from picking your nose.

We have a proposed summary of the meeting that you've all seen. It is a very brief summary. Folks that want more detailed are directed to the transcript.

Have you all had a chance can to review the summary minutes?

MEMBER LAMARE: Yes.

CHAIR WEISSER: Is there a motion for adoption of the summary of minutes?

MEMBER LAMARE: So moved.

CHAIR WEISSER: Ms. Lamare and seconded by Mr. Hisserich. Any discussion? Hearing none, all in favor of adoption signify by saying aye.

IN UNISON: Aye.

CHAIR WEISSER: Any opposed? Hearing no opposed, the minutes are unanimously adopted.

— o0o —

We'll now move to our Executive Officer's activity and update report. Rocky.

MR. CARLISLE: Before I do that I thought I might mention how people can call into this meeting.

CHAIR WEISSER: Very good.

MR. CARLISLE: If you like? First of all, there's two ways to contact us. As you may know, this meeting is being webcast on the Internet. If you would like to make a comment, you can either call in. There's a conference call line, and that number is 1(888)889-8869. When the operator picks up, you need to give her the password, which is 59040, and the leader's name at this point is listed as Rocky Carlisle.

The other way to contact us is through the use of e-mail, and you can use my e-mail, which is rocky_carlisle@dca.ca.gov.

CHAIR WEISSER: Rocky, if you could repeat those numbers again, both for the call-in number, passwords, and if you could spell out your name for the e-mail thing would be helpful.

MR. CARLISLE: Certainly. Again, the telephone number is 1(888)889-8669. The password is 59040. And the leader's name is Rocky Carlisle. For the e-mail, it's Rocky Carlisle, underscore, and that's rocky_carlisle@dca.ca.gov.

CHAIR WEISSER: Excellent. Very good. Rocky, are you now prepared to give us an update on your activity since our last meeting?

MR. CARLISLE: You bet. There's a couple of things. I was not only going to cover the activity report, but also give the committee a summary of the subcommittee reports as well.

So first of all, with regard to the highlights of the activities, I've been developing an active server page for our website, and what that will do for us is give anybody the ability that wants to to comment on the report via e-mail. They can go to the website and simply use the active server page and that will go right to a database. And the beauty of that is we'll be able to generate reports right off that database. I hope to have it operational by the first part of December.

The other thing I'm in the process of doing is implementing a virtual private network between the IMRC and the DMV. This has been necessitated by the lack of data. We wanted to get registration data. There's been a security issue between DCA legal and the I&M Review Committee, so I've got a security agreement with the DMV, and hopefully this week we'll start testing data files and make sure we're getting the right data back, and when that's successfully completed then we'll be able to get the data we're looking for the consumer information report. Another issue was the Mobile Source Clean Air Conference, which I attended the first part of this month for about three days, and I'll talk more about that in a minute.

And then also, like I mentioned, the draft subcommittee reports. Not all of those are completed, but we've certainly outlined some conclusions to them, if you will.

So first of all, -

CHAIR WEISSER: Rocky, before you go to the Mobile Source Clean Air Conference Report, just a question or a comment regarding the creation of this virtual private network in order to securely access the data that we've been after and your aside, your comment associated with the issues that have been raised by the Department's legal division associated with the survey that's being run by one of the subcommittees.

It's frankly been somewhat disheartening to experience the obstacles that have arisen, always late in the game, as we've tried to proceed forward with this survey. I am grateful to our contacts at the California Environmental Protection Agency who engaged with the Department of Consumer Affairs in order to allow the survey to move forward, but I am quite uneasy over the constraints that have been imposed on the conduct of that survey which will, in fact, I think, limit its utility but will form the basis for the need to actually do a far more expansive survey on the issues being covered by that subcommittee. I just wanted to get that out

MR. CARLISLE: Okay.

CHAIR WEISSER: Thank you.

MR. CARLISLE: Okay. The Mobile Sources Clean Air Conference is typically held someplace in a resort in Colorado. This year it was at Copper Mountain. And it's hosted by the National Center for Vehicle Emission Control and Safety.

The attendees, if you're not familiar with it, include, I&M administrators, equipment manufacturers, environmentalists, scientists, technicians, shop owners and educators, so it's well represented. And the idea is to bring together people for an exchange of ideas on mobile source emissions reductions.

And it was kind of interesting this year, because there were a number of speakers the first day and one of them showed this slide and it basically shows is the United States, and as you can see, all states on the East Coast and the West Coast have some issues, because the red shows particulate matter and the blue areas show ozone violations. And you can see most of the states have a little bit of problem on the Eastern Seaboard, but when you get to California, we're pretty much all colored in red and blue.

And Mr. Cackette from the Air Resource Board, did a presentation and he graciously allowed me to use some of his slides. This is one of them; it shows over 90 percent of Californians breathe unhealthy air. And if you look at it, the red areas show those areas that have been polluted with ozone more than 100 days per year.

The next shade of color is 50 to 100 days, the white color is 60 to 50 days, and the clear is 0 to 5. So you can see the majority of the populated areas of California are pretty much again

inundated with ozone, and this is based on the calendar year 2000.

The next one, though, shows particulate matter, and we have a similar situation where, again, the red areas are over 100 days, the lighter areas are 50 to 100, and the white areas are 6 to 50. So, unfortunately nobody in California escapes the particulate matter issue.

And what that brings out is some of the health impacts, and that data was generated from a report that was written by Dr. Allen Lloyd and Mr. Tom Cackette of the Air Resource Board, that they determined that the premature deaths in California resulting from emissions was 6500 per year, hospital emergency room admissions was 9,000 a year, asthma attacks equals 350,000 a year, adult respiratory illnesses 500,000, and of course children's respiratory problems is 800,000 per year, and that's every year.

The dollar impact is pretty staggering, it's 48 billion a year in California. And I should mention that part of this 48 billion is calculated based on the deaths. They calculate a death at 5.7 million. But the loss of work 2.8 million workdays. Now some of that is obviously government, some is private industry. But it's also school absences at 1.3 million. And people might say, well, what's the big deal about that? But with schools you have average daily attendance, the schools are paid for that

attendance, so they're losing the ADA times 1.3 million days per year, which is a significant amount of money.

So, the bottom line was their impression is we have a long way to go. As you can see here, we have ozone twice the safe level, fine particulates three times the safe level. We have toxics, primarily 70 percent is from diesel. Increases cancer risk. And it's disproportionate depending on the neighborhoods.

So, you know, we can either sit and talk to our kids and grandkids like this, or we adopt a new fashion statement that looks like this. So, you know –

CHAIR WEISSER: A man with a PowerPoint is a dangerous thing.

MR. CARLISLE: A dangerous thing. So that was kind of the substance of the clean air conference.

CHAIR WEISSER: Rocky, if I could. This is impressive data that should motivate each and every person, not just in the committee but in the audience to redouble their efforts to try to improve California's air quality.

I wonder, however, if Mr. Cackette also reported the progress that California has made over the last 20 and 30 years. I think that we need to take heart in the fact that air quality in California has shown tremendous improvement over the last three decades of regulatory involvement by state and federal governments. The vast majority of pollution problems that we face now still reside with mobile sources, and we on this

committee need to take our charge seriously in terms of identifying and assisting the development implementation of cost-effective emission reduction strategies to continue the incredibly positive and constructive progress that we've made to date. We shouldn't take heart with the challenge – you know, be afraid of the challenges ahead, because we should have some confidence by the fact that we've been able to make such remarkable progress over the last two decades.

MR. CARLISLE: Okay. Thank you.

On to the program evaluation report, and there's one of these that Dr. Jeffrey Williams is also going to present that I don't have the data for yet and he's still working on the data analysis, and that will be at the conclusion of this report. But I'm just going to through these one at a time, and we have the list of the items.

For example, item one was the idea of adding an idle test to the ASM and also looking at preconditioning procedures. And the argument is some vehicles will fail an idle test, however, they will pass an ASM.

Another issue is that some station owners complain that vehicles will fail at a test-only, but then they go to a test-and-repair and they pass the test, and the guess is at this point in time it may be a preconditioning issue, we don't know yet.

So one of the things that we were going to talk to BAR about, which we did talk to BAR about as a matter of fact, was the pilot at the referee, but it was pointed out the referee really doesn't represent the fleet as a whole. The vehicles that go to the referee, for example, are those vehicles that have a problem. They have a cost-exceedance issue, they're change – engine change, something like that, so they're really not representative of the vehicle fleet.

So what we decided – and when I say we, this was a subcommittee of one and myself. Mr. Hisserich could not attend the conference call that day. But we talked about conducting a mail survey, and I know a couple members hate the mail survey, but what we're trying to do is determine behavior in Smog Check stations. How they deal with these vehicles when they come in, how long they wait prior to a test, and what they actually do before they test the vehicle. And then possibly follow-up that survey with actual testing in either stations or in some part the BAR lab, that was offered, and to confirm the results of that survey. Then we can make some recommendations.

CHAIR WEISSER: Excuse me. Before you go on, I think now is the time for us to sit back, give some thought to what Rocky has talked about in this recommendation, spend some time seeing whether the direction of the subcommittee is consistent what your thoughts are. So receive some input or successes from the public

both the auditorium and on the ether – in the ether, and generally try to give your input into the development of this item. I would suggest first asking John if he has anything he'd like to add to Rocky's comment.

MEMBER HISSERICH: Well, I can't add anything, but I do have a question. The issue about doing a mail survey to determine behavior, could you expand on that just little bit? Because surveys may not be a really good indicator of behavior and they may be a report of what they think the behavior you want is.

MR. CARLISLE: Well, that's true, but the idea was that if we sample maybe 500 test-and-repair stations and another 500 test-only stations, see if there is a difference, first after all. That would be the first cut. And then if there's a difference we could actually – we could actually do studies in the individual stations, we could contract with the stations to provide us data. We really haven't flushed out the details on this issue.

MEMBER HISSERICH: If I may, you mean see what they do by asking them what they do or by going and observing what they do?

MR. CARLISLE: First of all by asking them in the survey.

MEMBER HISSERICH: I see.

MR. CARLISLE: Follow that up with actual observations.

MEMBER HISSERICH: In terms whether they do preconditioning of any sort and just basically they do when they conduct the test; is that right?

MR. CARLISLE: Correct. Correct.

MEMBER HISSERICH: I mean, there is a prescribed standard format, I assume, that is told to them what they become one of these stations that this is the way to do it with this piece of equipment.

MR. CARLISLE: Yes and no. The issue is that the law states that the vehicle has to be at operating temperature. The question can is, how do you get to operating temperature?

Some people choose, for example, to take the vehicle out on what they call 'hot lap' it, run it around the block, you know, at a high rpm to get good and hot. Others choose can to just let it sit and idle. Others may put a throttle jack on it, which is a device to hold the rpm at 2500 rpm so you get the vehicle good and hot. The problem is in some cases they tend to overheat the cat and they may get a false pass when the vehicle in fact should fail, or visa versa.

CHAIR WEISSER: Do we know why there isn't a single standardized procedure, Rocky?

MR. CARLISLE: Well, there's recommendations certainly that have been publish inside the *Smog Check Advisory* and *ENHANCED PROGRAM Blast*, but those are not law and those are only guidelines.

CHAIR WEISSER: As the subcommittee are you explored the notion of identifying a specific protocol that would be mandatory in terms of ensuring consistency in the preconditioning?

MR. CARLISLE: Well, I guess that was the reason for the survey and maybe the looking at the station behavior to see if there's a need to establish that regulation there the first place. We really don't know the answer to the question yet.

MEMBER HISSERICH: Do we know what the best method is? I mean, you've described three and there may be others, but there's no particular —

MR. CARLISLE: Well, when we talk about best method it really depends on the test type. For example, the method used for the two-speed idle test is running the vehicle at 2500 for three minutes in neutral or park, and that ensures the catalytic converter is up to operating temperature. However, with the ASM test there's more than enough time during both phases of the ASM test to provide warm-up for the catalytic converter. The issue is in some cases the catalytic converter has a tendency to cool down during prolonged idle.

CHAIR WEISSER: Rocky, could you describe why this is important?

MR. CARLISLE: Certainly. Because it boils down to consistency, you know. If a vehicle goes into a test-only station, for example, and there's little or no preconditioning, and it goes to a test-and-repair and there is a significant amount of preconditioning, you're going to have a vehicle that went to a test-only and failed the test, when it goes to repairs, some

stations can actually do the Directed Vehicle Certification after it's been tested one time at the test-only station.

CHAIR WEISSER: I have no idea what you just said.

MR. CARLISLE: Okay. A vehicle is directed to a test-only station.

CHAIR WEISSER: Um-hmm.

MR. CARLISLE: And it fails the test, so it can go to a Gold Shield station, and if they use a different preconditioning measure, then they will get a vehicle to pass and they will certify that vehicle, when in fact it was a 'should fail' vehicle.

CHAIR WEISSER: I think I understand what you said, but I don't understand why it's a 'should fail' vehicle. It sounds like one station –

MR. CARLISLE: Because in some cases if they get the CAT so hot, it may be a non-standard operating temperature.

CHAIR WEISSER: Okay.

Any questions further from the group, from the committee? Jude?

MEMBER LAMARE: I think the issue about the mail survey is the reliability of the information that you'd get back compared with doing a phone survey. For me, that's what it is. And that given the quality and amount of information you would get back from a mail survey, it seems like it would be wiser to do the phone survey. Given that one maybe costs a little bit more than the

other one, I think the cost is well-justified given the quality and quantity of information you'd get back. So, why would you not simply – it sounds like a quick and easy few questions, very short survey.

MR. CARLISLE: It's certainly easier than the current one we're working on, that's for sure.

MEMBER LAMARE: Yeah.

MR. CARLISLE: And I don't think we have the concern with the privacy issues with this one, because it's basically, you know, just behavior in a public facility, if you will.

MEMBER LAMARE: You know who the owner is, you know what his phone number is.

MR. CARLISLE: Right.

MEMBER LAMARE: He's available during business hours, this is his business. It seems like this would be a quick and easy phone survey to do.

MR. CARLISLE: We could certainly do that.

CHAIR WEISSER: Robert?

MEMBER PEARMAN: If the problem is as you just described it in response to Mr. Weisser's question, wouldn't you get more directly to the issue by, for example, having certain stations keep good records of what – you know, test-only stations keep good records of what preconditioning they do, and then you find someone that goes to a test-and-repair and passed if they failed

originally, then kind of compare those and look what was done actually in that case and see if there is some pattern there. And if there aren't that many, then maybe the problem isn't as great as you think it is. I don't see why you need to do a state-wide survey, again, that might not even give you the information you want or they might give you what they think the answer should be in terms of preconditioning but not what actually they're doing.

MR. CARLISLE: That allegation comes from industry, not me, but that's a good point, that could be one of the studies we follow-up with. The idea was to maybe get some preliminary information to see if there's a need to do this.

And by the way, that can cut both ways, because it could go to a test-and-repair station and fail and then go back to the test-only station and pass. And we're not trying to insinuate that anybody is doing anything illegal or irregular, just there is a difference.

CHAIR WEISSER: Thank you. Any further questions from the committee?

Is there someone from the Bureau of Automotive Repair who would like to share their perspectives associated with this issue?

MR. ROSS: We do not have an engineering representative here.

CHAIR WEISSER: Thank you. I'd be very much interested in getting your thoughts and suggestions into the mix, Director Ross. Chief Ross.

And now we'll go to the public members in the auditorium. We'll start from the back and work our way forward. Chris? And as a courtesy to the transcriber, if you could identify yourself, that would be great.

MR. ERVINE: Is this one working?

CHAIR WEISSER: Yes. I think it is.

MR. ERVINE: Chris Ervine with STARS.

CHAIR WEISSER: We'll put the light on Rocky and I'll start waving at you when you get into the yellow zone, Chris. People will have three minutes. Thank you.

MR. ERVINE: Suggestion as far as trying to determine which stations you might want to go to do your survey with. That information is all available on the VID and you can look at what test-only stations seem to have false passes and what test-and-repair stations seem to get – or false fails at the test-onlys, and which stations in the test-and-repair industry seem to get the highest number of the passes on that, and that could narrow your survey down quite a bit.

We tend, the test-and-repair industry, we tend receive more false failures during the wintertime, and we contribute a lot of this to the volume of vehicles, not only in winter but during the

summer too, but the volume of vehicles that some of the test-onlys are doing, and they're running cars through every 10 or 15 minutes. And I've had customers come to me that have failed as many as five times at a test-only and they say, well, their car sits out in the lot for half an hour and then they go out and get it and ten minutes later they come in and tell them it failed. Well, on a really cold winter day, basically you're going right back to a cold start in the morning and that car is not fully warmed up.

My recommendation for preconditioning would be to go back to either the 2500 rpm for three minutes or actually drive the car on the dyno and give a much wider range of miles per hour than you do during the regular test, say, 10 miles an hour for a specific time to heat up the cat and you're not – that way you're not superheating the cat, you're simulating pretty much the same type of conditions you're going to get on the roadway.

CHAIR WEISSER: Thank you, Chris.

Next, Mr. Trimlett.

You can take Rocky off of the yellow, he looks nervous.

MR. TRIMLETT: Len Trimlet, smogrfg.com. I agree with what I just heard. The bottom line is, I took my Chevy van my Toyota truck to test-only. Okay. In both cases, those vehicles sat out on the lot for a length of time which I believe made it closer to a fail condition. It happened to be just borderline pass.

A lot of the problem of why test-only is getting so many failures is simply because they are not – the vehicles are not warmed up, the cat is up to temperature. If you take that vehicle and put it through a precondition just to get it up to temperature, like he was saying, maybe a certain length of time at that speed, I think you'd get more passes than you're currently getting. So preconditioning on the dynamometer or preconditioning at idle would make a big difference.

I have two other questions. With relation do the study that was done. There are two things that make – to me, make that study suspect. One, we have doctors that have said that the MTBE in the gas that we use is a contributor to the asthma that is encountered. Doctor out of Philadelphia.

Also, I might point out that when you use ethanol gas, one of the things that has been shown even by CARB is ethanol is highly permeable. It will go through the hoses, and that's why when you put in ethanol, you don't put it in until you actually get to just before it goes in the tanker. And that ethanol permeability is contributing to your air pollution. So I find the data somewhat suspicious. Thank you.

CHAIR WEISSER: Thank you. Stay for a moment. Mr. Hotchkiss, do you have a question for Mr. Trimlett?

MEMBER HOTCHKISS: No, actually, I have a question for Rocky.

CHAIR WEISSER: Thank you, Len.

MR. TRIMLETT: Thank you.

MEMBER HOTCHKISS: I'm just wondering when a new vehicle is certified but USEPA, it goes through a whole process, and it seems to me that there's got to be like a time limit before it gets into a closed loop when it's warmed up, I mean, because they do cold start.

And then what is a new vehicle, what are the parameters that it has to meet?

MR. CARLISLE: Well, a new vehicle goes through a very extensive test that's called the Federal Test Procedure, and first of all, it's got to be preconditioned for about 24 hours in a cold room, it typically sits at 50 degrees Fahrenheit. When that is put on the dynamometer it starts stone-cold, as you indicate, but it goes through 3 phases of tests on the dynamometer that total 31 and a half minutes, so it includes a warm-up cycle.

In addition, it also goes through another cycle in what they call a SHED, which stands for Sealed Housing Evaporative Determination, to determine if there is any evaporative emissions coming off that vehicle. Fuel, for example, permeating through fuel lines, or the new plastic gas tanks that Chrysler came out with a number of years ago, and so it's a very sophisticated test compared to the one that we do and use.

MEMBER HOTCHKISS: What I'm trying to get at is that vehicles are designed to reach the operating temperature within a certain time-span.

MR. CARLISLE: Very quickly, yes.

MEMBER HOTCHKISS: Very quickly. So it seems to me that there also is a problem with deteriorating equipment which would lengthen the time span. I mean, in theory, having a car sit on a cold California day, which might be 40 degrees, it shouldn't take an extreme length of time for the catalytic converter to get back to its operating temperature. I mean, vehicles are designed in the United States to operate down to what, 30 below? You know. Unless we're in the Sierras, we're not in extreme low temperatures here. So, what I'm thinking, if the vehicles need some kind of excessive preconditioning, it would indicate to me that there's a deterioration of the equipment.

MR. CARLISLE: I would agree. The ASM test, the Acceleration Simulation Mode Test currently used by the industry, is – the first phase of the test is at 15 miles per hour and you're allowed 100 seconds duration for that test. But what some people may not understand is that vehicle can actually be failing for the first 90 seconds, and as long as it's passing for the last 10, because the analyzer takes a 10-second rolling average of emissions, and as long as it finds 10 seconds of average pass,

it's a passing vehicle. So it has a significant amount of time to warm up with a pretty good load on it.

CHAIR WEISSER: Okay. The handsome gentlemen to my left.

MR. CARLISLE: Absolutely.

MR. RICE: Bud Rice with Quality Tune-up Shops. Two quick comments. One was that I think on the presentation that Rocky did originally, I think the timeframe was 2000 was the year that the data was accurate; was that correct? So I think I'm going to back up what you're saying, Mr. Weisser, that maybe the data is not available to us and we can't get to it, but I think a lot has happened between 2000 and 2004 in terms of effectiveness of the program and the way we're testing vehicles today, so the data may be different if we were to take a snapshot today verses what we took back in the year 2000.

CHAIR WEISSER: Thank you.

MR. RICE: One more quick question. That would be, I'm going to back up what Mr. Carlisle here saying that we see a lot of cars in the preconditioning situation that he's describing and would advocate that that the ASM idle test be utilized and maybe even in terms of software changes with the machines where they could prompt us through a preconditioning mode that might give us an extra they minutes or so. I agree with Mr. Hotchkiss can that if you go excessive, well, now you're kind of defeating the back side of that situation, so a quick three minutes to get the car

up to operating temperature, prompted by the machine, that would be great

CHAIR WEISSER: Thank you. Mr. Ward.

MR. WARD: Thank you, Mr. Chairman. I would like to indicate that we would certainly agree with Mr. Hotchkiss on the issue that a car that needs to be preconditioned over and above that which is described in the manual probably has an equipment problem. And a catalytic converter will cover up a host of sins. There can be a lot of things that are attributable to emission problems in that vehicle that the catalytic converter is designed to deal with.

If the catalytic converter takes a long time to heat up, the kinds of emissions that you're trying to impede; i.e., idling and cold starts, are stopped. It's not functioning, it's not producing what it's supposed to produce.

And the biggest problem that the test-onlys have and that I hear as the executive director of that association is that failure at the test-only and then going down the street and pass at another Smog Check facility. And it's - the issue for us is really the consumer inconvenience, because they come back and the customer is upset because they've now paid for two smog checks.

In any event, I think that, as you indicated Mr. Chair, there needs to be a very prescriptive definition as to what the

expectation of preconditioning is. Right now it's a very, very ambiguous term. Thank you.

CHAIR WEISSER: Thank you, Mr. Ward. Sir?

For folks on the telephone or the Internet, we'll be moving over and asking you questions momentarily. Please identify yourself.

MR. NOBRIGA: Larry Nobriga, I'm with Automotive Service Councils. Couple of things.

On the failures at a test-only and then they end up at a test-and-repair such as mine, we see a lot of monitor failures where somebody just changed a battery. Maybe the car was worked on, it was disconnected. And when we're limited with two monitors, some of these vehicles will not run the monitors easily or quickly. That's one of this things that we see.

CHAIR WEISSER: And by limited to two monitors, you mean the failure of two of the monitors, don't you?

MR. NOBRIGA: The failure of two monitors.

Preconditioning. Cat isn't the only issue. We see a lot of vehicles with bad thermostats, so maybe it's going to pass for me after I've done a lot of looking at it and it's run in shop for a long time. Going down the road, it's filthy because the engine is running at 100 degrees is instead of 200, and that will definitely be an issue.

As far as Rocky's deal on surveys. Mail surveys as a rule have a very low rate of return, and I think that it's human nature to

give the answer that we think somebody wants. I don't know whether it would make sense or not, but would it be possible for the field offices to pick and choose a couple of shops and observe them for a while, you know, not like enforcement things, but observe them for a little while through a few smog checks and then go in and say I'm here just, this is what we're trying to do. Would you run a Smog Check for me? You're going to find out whether they're doing it the same for a Bureau representative or not, and you're going to see what they actually do.

CHAIR WEISSER: Thank you.

Okay. Now it's time to see if there's anybody on the conference call line that has a question or comment. Is there anybody? And I'm assuming, Rocky, you've received no e-mails?

MR. CARLISLE: Not yet.

CHAIR WEISSER: I will then make a concluding remark on this particular item. Jude, did you have something you wanted to add?

MEMBER LAMARE: Could someone explain to me what is meant by 'limited to two monitors'?

CHAIR WEISSER: Rocky will do that, because he explained it to me a few weeks ago.

MR. CARLISLE: The OBD II system, referred to as On Board Diagnostics II, which is referred to as OBD II, has tests, on-board tests that it conducts on the emissions systems, and there's as many as eleven. There's maximum of three continuous

and as many as eight non-continuous. Most vehicles have about six.

Now, the rule is that those vehicle monitors have to be run to completion. They don't pass or fail, they just complete the sequence of events. In other words, one monitor for the catalytic converter may require that you start the vehicle up cold, then drive the vehicle down on the highway at 30 miles an hour for 2 minutes. If that runs to completion and it met all conditions required for it to do the test, then it's a completed monitor, what they referred to as ready. And all it means is that it completed that, and it either found problems with it or it didn't, okay, because it can set codes as a result of completing the monitor.

Now what happens is when people do work on these vehicles, when they clear the trouble codes they also reset all the monitors, so it takes in some cases two or three days of average driving for these monitors to reset.

CHAIR WEISSER: Because, Rocky, the monitors are only reset, certain of them, when you've gone through certain aspects of driving?

MR. CARLISLE: Exactly.

CHAIR WEISSER: Like Rocky said, one will be 30 miles an hour for 2 minutes, one might be 50 miles an hour over a certain period of

time. So if the battery cable is disconnected, all the codes are wiped out.

MR. CARLISLE: Absolutely.

CHAIR WEISSER: If it's reset by a technician or a knowledgeable owner, all codes are wiped out, and those will be not counted as passes, they're essentially a failure.

When the OBD II system came in, Rocky, how much failures were allowed and a vehicle could still pass?

MR. CARLISLE: Actually, when it was first implemented in California they didn't count the monitors.

CHAIR WEISSER: When they started counting monitors.

MR. CARLISLE: When they started counting monitors, as I recall, they started with five.

CHAIR WEISSER: And now how many is it?

MR. CARLISLE: Now it's down to two.

CHAIR WEISSER: So it's a much tighter standard now.

MR. CARLISLE: Much tighter. As an example, though, in Oregon it's only one. If you have more than one set to not ready, it goes back, and it doesn't effectively fail. I mean, it'll fail the test because I guess you could say it failed the test because it didn't pass, you if you will. But in many cases it just requires driving the vehicle to get these to run to completion. And some are very difficult. It has to be through a very precise sequence of events, which for the most part are covered in normal

driving, but many of them require maybe five to ten minutes at highway speeds. And the problem is, if it requires 60 miles an hour, for example, for ten minutes, and you go nine and a half and then slow down, too bad, you have to start over.

CHAIR WEISSER: Did that respond to your question, Ms. Lamare?

MEMBER LAMARE: I'll catch up.

CHAIR WEISSER: Thank you, Rocky. You did a good job.

MR. CARLISLE: I have a book you can read, Jude.

CHAIR WEISSER: I'm sure she's anxious to read that best seller, Rocky.

Well, I have a closing comment. As I said, Chief Ross, I'm really interested in the Bureau's perspective on this issue, but I would lean toward including a recommendation of the committee suggesting to BAR the development and promulgation of a guideline or regulation that would require a standardized conditioning process for both test-only and test-and-repair.

Do you guys agree? Is there a – it just seems to me intuitively desirable to provide specific guidance to normalize and regularize this among stations.

MEMBER HISSERICH: If that were done, I think then the idea of prompts on the machine could become more standardized, as well.

CHAIR WEISSER: I would want to find out – John, I think that's a good idea. I'm sorry to interrupt you. I would want to find out more about the costs associated with needing to integrate that

into the machine. I'm leery of software glitches. I'm leery of the need for new hardware or new chip design. I would want to get a better sense of what the costs are, but I would want to explore whether or not that could be integrated into the actual functioning of the machine. And I'd like to put that in the form of a recommendation in this section, if there are no objections. Okay. We're going to move on to the second one, Rocky, but before you start it's my duty and honor to introduce to members of the committee and to the audience, Ms. Nancy Hall. Nancy is the Deputy Director for the Department of Consumer Affairs. She was appointed in August and I'm pleased that you're august presence is here today.

Before joining DCA, she worked on some political campaigns for a very prominent firm here in California. I'm not going to give them any free advertising at this moment. She served as a legislative assistant in the Assembly. Welcome, and I'm sure we'll be in contact with you.

My earlier comment regarding the difficulties we've had with DCA legal was made before I knew you were in the audience, Nancy, let the record reflect that.

Rocky, item two.

MR. CARLISLE: Okay. I should also mention Nancy is also looking at getting us the other three board members we're seeking for this committee.

CHAIR WEISSER: That would be spectacular. I hope you have better luck than I've had.

MR. CARLISLE: Okay. Item two is the BAR budget. The question was, are BAR appropriated funds dispersed according to budgetary requirements? And this wasn't something the committee came in with, this was a concern by some in the industry, allegations were made, so the committee, fulfilling it's obligation, wanted to look into it.

And the findings and recommendations, this is actually one of the lengthier reports, as I recall, it's up to five pages now. It has to be reformatted a little bit, but BAR expenditures all appear to be complying with emission requirements and of course the law. But one of the requirements we're looking at, or recommendations in the report is recommending a five-year repayment of the previous \$114 million loan from the VIRF or the Vehicle Inspection Repair Fund to the and in General Fund, and what we're looking at that for is specifically the high-polluter removal and repair account to fund Consumer Assistance Programs. So that's the biggest recommendations we're looking at. There's other issues in there, but that one hasn't been finalized yet.

CHAIR WEISSER: Well, let me add on to what Rocky said. I'm one of the members in this subcommittee. I think it's important for, as we've said before, the committee and the public to know we did not have resources to do a real audit. What we did do is chat

with members of the Department in both the program and administrative staffs. I always had a conversation with a couple of people at the Department of Finance, and those discussions that we had led me to believe that they are, as Rocky said, following all the required statutory requirements associated with budget development and the fiscal controls that are necessary. They are following all the requirements that the Department of Finance lays out, in terms of how program funds are generated and administered. And importantly, that they are not being overcharged by other constituent agencies within the Consumer Services Agency or the Department of Consumer Affairs and having their monies being used inappropriately to support overall agency administration disproportionately.

There are very clear standards laid down program area by program area by the Department of Finance, and they are confident and I'm relatively confident that those are being followed through. So I saw no evidence of, you know, misdoings in terms of the use of funds that come into this program.

However, consistent with the law, and I might say consistent with political practice in this state for the last decade, there have been a number of legal loans made out of the funds that folks contribute to through licensing and certificates and whatnot totaling approximately \$114 million over the past several years. The law allows for such loans to be made and the administrations

both current and past have taken advantage of that law to remove funds from certain special funds and use it to backfill the hole that we all know exists in the General Fund in California.

The law provides, as this report will say, that these funds must accrue interest and must be repaid, but the law doesn't say when they must be repaid. The law indicates that the agency from who the funds have been loaned may request that the funds be repaid, but is not clear on the standards upon which the Department of Finance or anybody else would approve such a loan being repaid.

And therefore, though the law also provides that the funds must be repaid before a tax increase is made in that particular area.

That provides the grounds for us to put forward to you a recommendation that a pay-back program being instituted to recompense the accounts from which these funds were borrowed over a five-year period, and it provides the opportunity for us to recommend to you that we adopt a recommendation that these funds be specifically directed to the Consumer Assistance Program, or as Rocky indicated, income are lower income – assistance to lower income Californians for the repair of their vehicles under this program and for use for accelerated vehicle retirement, period.

So I think that's the crucial recommendations in this report. I think it's a recommendation that actually will influence our discussions on subsequent issue areas that we'll go into. And with that, I'd like to encourage committee members to share their

concerns or support or ideas associated with this, and we'll start with Tyrone.

MEMBER BUCKLEY: Thank you. Tyrone Buckley. I was wondering, I remember when we discussed this, I believe at my first meeting in Emeryville, some of the public folks brought up the issue of what impact it had on the Consumer Assistance Program. Did we learn anything from what you all looked at as far as what these sort of loans, how they effect the work of BAR and the effectiveness of the Consumer Assistance Program.

MR. CARLISLE: These funds were actually taken out of the Vehicle Inspection Repair fund and not the HEPRA, so they didn't impact consumer assistance, as I recall. There were some funds, I believe, and I'd have to check with BAR on it, but there were some – they did cancel the retirement program, the vehicle scrappage program, but overall this was essentially what they label as a surplus. I mean, it was a hundred million dollars on the first cut.

MEMBER BUCKLEY: But you would say as a result of this type of loan the Vehicle Retirement Program was cut?

MR. CARLISLE: I don't know if that's the reason for it, I'd having to back and look.

CHAIR WEISSER: Well, I'd add in, and this editorial, Tyrone. If you had this money, you could have spent a far greater amount on early vehicle retirement, accelerated retirement, and you could

have spent a far greater amount on outreach to lower income people to increase the demand frankly for participation in this Consumer Assistance Program. We've seen the materials, the consumer information materials that consumers are given as part of their license renewal, and yeah, it's got some good information in there, but there's a lot more that could be done to improve outreach into particular areas of low-economic activity.

So I say, the loan of this money has indeed impacted and influenced the program in terms of limiting the sort of things that it might be able to do in both of those areas.

Jude, did you have a comment?

MEMBER LAMARE: Well, I support the recommendation that you have made here, and I think I'd like assurances that if it's deposited in HEPRA then it's available to improve consumer outreach, but I would also point out that our committee has been severely limited in the research capability that we have because we don't have the funds to conduct independent inquiries, and I would like to see our budget increase to allow for real consumer information surveys and real evaluation of what's going on with the various kinds of Smog Check stations and inspection protocols.

CHAIR WEISSER: I agree that if this committee is to continue, adequate funding of its work would be desirable. However, I'd be hesitant to want to specify that in the report, frankly, because

it sounds too darn self-serving. So I think we go after that money in the budget process through the good offices in BAR and CARB, and we make our case for why they should include adequate funding in your budget, but I would not specify that thing in the report. Okay.

Comments from – sorry. Robert?

MEMBER PEARMAN: Robert Pearman. Did you find out that any agencies have from time to time made this kind of request for repayment on a sort of ad hoc basis, and if so, have they been honored?

MR. CARLISLE: I have not been able to determine if anybody's requested that money back. I think – I won't comment other than to say that.

CHAIR WEISSER: Thank you, Rocky.

I'm not aware of repayments from agencies such as we're dealing with now, but I do believe that there have been loans in past years from the State Transportation Fund that were in fact paid back with interest. I'm fairly certain of that because I was at Cal-Trans for many years and we agreed under duress, and this was many, many moons ago, many years ago, to make some loans, and we did get them paid back, and in fact, that was the reason why interest is now paid on those loans, that was part of the deal.

But the process is, Mr. Pearman, anything but clear as to how you actually get the money back. There's no particular standards that are specified in the statute.

Comments or questions from the audience? Chris?

MR. ERVINE: Chris Ervine, Coalition of State test-and-repair Stations. Am I correct can in assuming that the CAP and the HEPRA funds are all financed out of the tax on the four years and newer vehicles that are exempt from the Smog Check program?

CHAIR WEISSER: Rocky, could you respond?

MR. CARLISLE: The HEPRA and CAP are, yes, that's the majority of funding.

MR. ERVINE: Based on Mr. Weisser's remarks about no new tax can be imposed until the borrowed funds are repaid, how does this effect the five- and six-year old vehicles exemption and the funding of the Moyer Plan?

CHAIR WEISSER: Well, I think that's a very interesting question, and I'm not an attorney, thank you, but I believe that the answer is that those are considered to be mitigation fees, not taxes, and because they're being used to mitigate the emissions that would otherwise be garnered through smog check through use of that money to go to generate emission reductions equal or greater to those that have been lost through the use of the Moyer Program.

MR. ERVINE: What do they consider the CAP and the HEPRA funds, a tax or a mitigation?

CHAIR WEISSER: I believe that the fees that go into HEPRA are fees.

MR. ERVINE: Tax.

CHAIR WEISSER: Fees.

MR. ERVINE: I think we're treading on a real fine line here as to what's going on, and -

CHAIR WEISSER: I agree.

MR. ERVINE: Thank you.

CHAIR WEISSER: Len.

MR. TRIMLETT: Len Trimlett, smogrfg.com. My first quick comment, I agree whether you call it a mitigation fee or a tax, names have been changed to protect the guilty. It's the same difference. Okay.

Now, regarding the CAP program. You spend a lot of money on buying cars to crush them so you can provide pollution credits to industry. You would be much better served instead of crushing those cars to move that money over to helping people repair their cars. You would get a lot cleaner air out of it. Crushing cars has not been cost effective. To me, it's anti-environmental, but that's my opinion. I think you should consider moving that crushing money over to repairing the cars for the poor. Thank you.

CHAIR WEISSER: Thank you, Len. I want to make sure you recognize that what we're proposing is the monies be available for either/or. I won't argue with you at this point in time, you know, with your comments associated with the cost effectiveness of accelerated vehicle retirement versus repair, but encourage you to look into the cost effectiveness reports that have been coming out from ARB and BAR over the past years.

I want to emphasize that to lay people, to regular people, the difference between a fee and tax doesn't sound like much, you've got to write a check in either event, but in the law there are substantial differences between fees and taxes. Taxes require a two-thirds vote, fees a 50-percent plus one. Taxes can be used for lots of different purposes. Fees must be used for a purpose associated with who pays the fee, has to be related in some factor. So there are significant differences that need to be recognized, even though to the regular person, they're just writing a check they may not know the difference between a fee and a tax.

Chris, if you have a very short comment, we'll take it.

MR. ERVINE: Chris Ervine with STARS. Just based on your last statement, there are fees, they have to be used by the people that are paying them.

CHAIR WEISSER: No, they have to be used in an area that's associated with who's paying fee, a program area – there has to

be a nexus between why the fee was collected from a particular entity or person and the use of that fee. And here the nexus is air quality.

MR. ERVINE: Therefore, that's how they get away with charging people with gasoline engines to repair diesel engines on boats, airplanes – not airplanes, but boats and diesel trucks and farmers pumps through the Moyer Plan; is that correct?

CHAIR WEISSER: Yes. Thank you.

Comments from the ether. Anyone on the Web want to say anything? Anybody on the conference call?

Hearing nothing, we will move to item number three. And following item number three, I propose that we take a ten-minute break.

Mr. Carlisle?

MR. CARLISLE: Okay. Item number three involves the roadside testing teams the BAR puts out all over the state. These gentlemen go out with portable, if you will, ASM assemblies, and they conduct roadside testing on vehicles to collect data for program evaluation. Recently, BAR has also undertaken a study for remote sensing and most of those teams have been diverted to the RSD study. And so, there's a concern that they may lack sufficient roadside testing data to do future program evaluations.

So, the recommendations –

CHAIR WEISSER: Well, excuse me. Before you go into recommendations, what was your finding?

MR. CARLISLE: My finding is we really haven't determined anything under this category yet. We're still talking to BAR. There's some issue, for example, they're going to be done with that remote sensing program pretty quick, as I understand it, by the end of the year, but once that's done, I'm assuming they could then be diverted back to the original function. So, we haven't finished this one yet, okay, so we don't have any recommendations or findings.

CHAIR WEISSER: Jude?

MEMBER LAMARE: I'm sensing a little bit of a contradiction between what we just recommended, that we recover 114 million and transfer to HEPRA versus the Department has probably not had the resources it needed to do the adequate roadside testing and remote sensing to monitor what's going on with vehicles on the road, and that's a fundamental premise of the Smog Check Program is we need to be watching what emissions are in the real world. So, it seems like we may need to ask for some of that money, and we have really no guide points here so far as to what kind of a roadside testing program is at minimum needed statewide and what kind of an ongoing remote sensing program, what are the costs that are needed. This particular area seems pretty weak right

now for making a recommendation and I think we need to get cracking on it.

CHAIR WEISSER: Rocky, do you know whether the lack of staff to adequately staff both the roadside testing and the remote sensing demonstration was caused by a lack of dollars in the account or a lack of authorized expenditure in the budget and authorized personnel years in the budget to adequately staff this?

MR. CARLISLE: I don't know. I do know one of the problems they had with regard to AQRs -

CHAIR WEISSER: I don't know what an AQR is.

MR. CARLISLE: Air Quality Representative. That's an entry-level position with the Bureau of Automotive Repair. And in many cases, those gentlemen, just like everybody else, they're looking to move up, and so they take positions with the field offices as program representatives, and then it becomes difficult for the roadside team manager to hire new people.

CHAIR WEISSER: In other words, it's a question perhaps of not so much a financial capability of paying for the people, but the number of positions that they have open for filling and their ability to recruit?

MR. CARLISLE: As I recall, I believe at the last meeting, Chief Ross indicated that they were fully staffed, but I don't know that to be the fact.

CHAIR WEISSER: Robert?

MEMBER PEARMAN: Yeah, this was raised at the last meeting and I note in the packet you've got a letter you wrote to Chief Ross October 4th, and the first question deals with this precise issue. Have you had an answer yet to that first question? If not, when do you expect an answer from BAR?

MR. CARLISLE: No, I have not got an answer. I will talk to the chief after this meeting.

CHAIR WEISSER: I agree with Jude that it's very difficult to come forward with a specific recommendation on this issue because we don't have some of the underlying data, but I certainly would have no problem in the committee coming forward with a statement supporting, urging that the Department plan in its budget for an adequate level of staffing for this vital function, this gold standard of data collection, and avoid moving staff in such a way out of these positions that would undermine the efficacy of data collection.

I think we would could do that, Jude, without a heck of a lot of data and just come forward as a group that's so reliant on data indicating we just cannot afford to have that function abused. We have folks from BAR in the audience. I don't know if there's any comments anyone from BAR would like to make to further illuminate the committee's understanding of your staffing needs versus your ability through your existing budget and the budget

you're preparing for 2005-6 in this area. Is there any comment anyone from BAR would like to make?

MR. ROSS: Mr. Chairman, the discussion has touched on a number of aspects of the organization and the administration that also applies to any number of government agencies. The issue of budget, the issue of authorized appropriations, the issue of establishing the number of positions that any particular agency is allowed to have depending upon the, what I always refer to is the external factors, and the ones which I have no red button on my desk that impact upon. So to discuss the multiple factors in this particular forum is really going to be inadequate. I will respond to the questions addressed me in the letter, and I really do believe in quality information, that's why there is no reply at this point in time.

So I've come up here to advise you that really I'm not prepared to discuss all of the ramifications that have impacted upon reduced staffing in multiple state agencies, reduced appropriation authority, which is different than collected fees and impacts every state agency.

I'm not going to say woe is me, woe is me at BAR, but I'm working under the same umbrella as every other entity toward renewed resources and always the expansive need for completion of task. And even in the limited discussions that have occurred this

morning there have been several advocacies of new kinds of things to be studied and to be done and to be implemented.

So, that's kind of like my personal household budget. Right now

—

CHAIR WEISSER: I hope not.

MR. ROSS: — my needs always seem to exceed my income. Ergo, I have to watch which needs I say I'm going to be able to fulfill. So, sir, I respect your time. I will respond to the RSD issue study in the letter, and really can't go into all the depths of issues relative to budget, personnel years, program allocations, fees versus taxes, etcetera.

CHAIR WEISSER: Thank you, Dick.

I still believe that it would be in the purview of this committee to make a recommendation that this program area be adequately funded, the Department go after an adequate number of positions in this area and jealously guard the siphoning off of people in this area for other programs without being able to adequately backfill those positions. I'm not sure we have all the data in order to make that sort of recommendation. That would be my inclination. I'm curious if anyone on the committee disagrees. Okay. I think we'll take a break. It is quarter to eleven. Why don't we reconvene at five of eleven?

(A brief recess was taken.)

CHAIR WEISSER: Okay. The meeting will now come back to order. And I understand, Rocky, that we have a very brief discussion on item number four, and if you could lead us in that?

MR. CARLISLE: Certainly. I'm number four is the quantifying of emissions reductions as per the ARB-BAR report. We haven't done a lot on this because we haven't had the contract funds to go out and contract for this, so part of this we were relying on one of the subcommittees to do some preliminary analysis and just look at the processes that BAR and ARB used. And that, to be honest, we kind of put on the back burner, not on the back burner, but we've made some assumptions that so far their analysis is correct, there's no reason to suspect it's not. But then, Jeffrey Williams has been going through and looking at some of the data in the process of comparing test-only to Gold Shield to test-and-repair.

CHAIR WEISSER: What sort of assumption – and I'm not sure what you mean by made some assumptions based on the data.

MR. CARLISLE: When, when the subcommittees looked at the processes they used to conclude the results because some of it's based on EMFAC model and the rest of it's base on the roadside data. They have a good correlation between the two, so it appears their process they used to conclude the amount of emissions reductions is correct.

CHAIR WEISSER: We've received e-mails from the public who have raised issues associated to the amount of emission reductions that are credited to this program due to Smog Check repairs and whatnot. Are we in a position to be able to respond to those?

MR. CARLISLE: No. I've actually written to ARB for a formal response, since they actually did the data analysis. And as I've talked to them, I am not a data analyst and I would like their response before we go any further with it.

CHAIR WEISSER: Are there any questions or comments from members of the committee?

Jude?

MEMBER LAMARE: Well, I did look in some detail at the questions that were raised by the public in our earlier e-mails and so on, and there were two critical questions that I've asked for ARB's response before we just discuss our findings on that.

One of the questions that I did look in detail at had to do with – see if I can recall this – we were asked if we could do a data analysis to determine the length of time that car roadside inspections revealed the vehicle test failed the Smog Check test at roadside compared to their previous or subsequent Smog Check. And if you read the ARB's technical appendix, they have done, I think a very credible job of looking at that issue. They didn't do it exactly the way that the commenter suggested that we do it, but in looking at the proposed research that we were asked to do,

it seemed to me that we were being asked to use too many categories for the number of cases that we have, and that our conclusion could not reliably be different than what ARB had already concluded based on its (inaudible)

What I did want to say about that is, ARB is and BAR are extremely clear in their analysis that there is deterioration and that cars in roadside or 40 percent of the failed vehicles in roadside are determined to have failed a Smog Check when they were determined to have passed it in the past six months.

So, I think clearly the analysis done by the agencies identified the big problem areas where they can say, okay, this is due to either/or or a combination of fraud or lack of general repairs, and their report recommends some response to that issue, so I did not think it was practical or even useful for us to through with the recommended analysis (inaudible).

That was my conclusion.

CHAIR WEISSER: Thank you.

Are there any comments from other members of the committee? And any comments from the public in the audience? Comments on the phone? No e-mails, Rocky?

MR. CARLISLE: Not yet.

CHAIR WEISSER: Then let's move into item number five.

MR. CARLISLE: Okay. This is one where Jeffrey Williams -

CHAIR WEISSER: Excuse me. While Jeffrey's going down I have a follow-up question that just came to my mind.

MR. CARLISLE: Okay.

CHAIR WEISSER: I remember a suggestion was made some time ago that with the implementation of enhanced testing in the Bay Area, that implementation would provide a perfect lab test opportunity to identify what the difference might be between a basic area and an enhanced area in terms of the performance of the public, and that, if I'm correct Rocky, we forwarded that suggestion to the agencies.

MR. CARLISLE: Correct.

CHAIR WEISSER: And I'm wondering whether you could give us a report on where we stand on that issue.

MR. CARLISLE: I haven't had a response on that yet.

CHAIR WEISSER: It seems to me that for the folks that are in the agencies in the audience right now, it's important for us to get a response on that issue so that we do not allow a golden opportunity to get and compare some baseline data escape. If we don't do it now we won't have another opportunity as large as the inclusion of the Bay Area in enhanced I&M would provide, so I'd like to get an answer on that within the next week.

Okay.

MR. CARLISLE: Okay.

MEMBER WILLIAMS: If you recall, a month ago I was looking at some of the test records provided by BAR, and I've been focusing on Fresno as an example of what was happening among test-only, test-and-repair with the subset of Gold Shield. I've done more analysis of that particular example and would like to report on it today. It confirms many of the more general points I was talking about last month, but it has some other complexities I'd like to emphasize today.

I've also gone ahead and at the suggestion of Greg Sweet, who is a BAR analyst, to look at a particular record category called Sample D, which does not mean directed, which you might think it would, but it's a .1 percent sample that is not put through the high emitter profile algorithm and directed. These cars can go wherever they want, and I've looked at this Sample D with the view of seeing who goes – volunteers to go to test-only and what are the pass rates there, and I'll save that till the last moment because it's quite exciting.

So for the moment we'll stick with Fresno, which I don't think anyone's ever called exciting, but there's some interesting things here where I have a full sample of facilities. And by facilities I mean the various test-only, Gold Shield and so forth.

There are 106 registered facilities in Fresno, but 6 don't seem to do any tests. That's puzzling. A few do very few and I've removed them from most of the analysis.

These are the raw records I'm getting. I've sorted them by the vehicle identification number and tried to follow particular vehicles over the 13 months of data I have who are taking tests in Fresno, and right away we have the issue of what is a test and how many times it repeats.

And I've followed a slightly different methodology here than BAR analysts. Both seem valid, but both are a little disquieting in that the number of ambiguities here is quite large.

For example, there will appear in these test records abortions.

There's something like 230,000 records I'm dealing with in Fresno and about 10,000 of them are abortions in some way. Now, I don't know why they're being aborted, but that's a lot. If it were only 10 I wouldn't worry, but 10,000 means that there may be some human activity going on.

There are a number of other vehicles. I can identify 194,000 vehicles in this Fresno sample, and I come up with 212,620 tests. Now, why are there double? Some vehicles have more than one test. There's some examples of somebody who's come in with a biennial test and then six months later sells the car, and I've called those two separate tests, as I think is reasonable.

I've also called two separate tests when someone takes a car to a test-only and then later takes it, like at least a day later takes it to a test-and-repair facility. I've called separate tests if it's gone to a test-and-repair facility and later gone to another test-and-repair facility. I understand BAR just counts the first one of these, and so forth, but in there is some ambiguity. But in total I'm dealing with about 212,000 tests, so defined. Let me give some general facts about these that are very consistent with a sample of about 10 or 12 stations I showed last week [sic].

First of all, of all the tests done, 43 percent of the total tests in the Fresno area in these 13 months were for what were called initial tests, someone coming in from out of state for the new car California, or change of ownership tests, and most of those are change of ownership tests. So let me say those numbers again and concentrate on the change of ownership tests.

Something like 35 percent of the total tests done in Fresno were change of ownership tests, and that's a very large number. Maybe I've got it counted wrong, but I don't think so.

And this is interesting. All facilities are doing these tests including test-only, and they often differ very much in the percentage of this type of test they're doing versus the regular biennial tests, so there's some very interesting heterogeneity

here that I think must be a function of their basic clientele and something.

CHAIR WEISSER: Geography.

MEMBER WILLIAMS: It's worth emphasizing that the typical car that's having a change of ownership are in two categories. Some are ones that are going through the dealers that I mentioned before and they're very new cars, and the others are very old cars and those are the ones showing up at test-only facilities and the regular biennial testing. So in effect, many cars are getting an annual test anyway because they're going through a change of ownership, though it's not systemized that way.

So some of the benefits we might get from an annual test of 15-year-old and older vehicles is partly being done by the change of ownership tests, so it's not that much of additional benefit, but I suspect we're also not counting as a benefit of the program in general these change of ownership tests because some cars that are failing are being caught.

Now, here's another interesting statistic. I looked at the test-only facilities in Fresno. There are 24 of them, 19 of which are quite active, and I looked at the various tests type they do - change of ownership, the initial tests being one category, the biennial tests that are volunteers, and then what we call the directed tests.

As a category as a whole of all test-only varies quite a bit by facility, but in the category as a whole, only 45 percent of the test-only tests are directed. The majority of tests are being done for other purposes. It's not a very small fraction, it's a very large fraction.

Of those that appear to be biennial tests, not change of ownership and so forth, I find that 42 percent of the tests are being directed to test-only. It's a little higher than the 36 that may be due to the composition in Fresno or the way I'm counting repeat tests possibly. So that's consistent, and so the fact that emerges to me that these test-only are doing a lot of other business and we want to understand that. And I should say that their fail rates are very different, both individually and as a group, on whether they're doing change of ownership tests or directed tests, mainly because the fleet composition is very different in those categories.

Overall, all these tests, not just the biennial tests but the change of ownership tests, 52 percent of the total tests are being done by test-only facilities in Fresno. Let me say that - everybody get that?

But now comes a surprise. I've looked over the 13 months and that 52 percent stays incredibly constant - 51, 53, 52, 51, 53. Whatever business test-only are doing, we are seeing an equilibrium in Fresno. People who are in the test-and-repair

business may object that they're directed tests or that test-only are taking other business, but that has already happened, it's not that it's increasingly happening, it seems, at least in Fresno. In some sense that makes sense, right?

Now let me turn to some graphics of concentrating on the test-only facilities for the moment, and let me explain what I've done here and I've made it just big enough that nobody can see it, right? Very clever.

I'm worried about the composition of the fleets of the various test-only facilities. For every active test-only facility in Fresno, 19 in number, I looked at their failure rate among the tests they did for directed tests, this is not change of ownership, and I've computed that.

Maybe the first thing to look at is the scatter diagram of their failure rate, so measuring on this axis is the failure rates of these various facilities. The mean failure rate or the weighted average is about 25 percent, the middle here. But first of all notice there's tremendous variation in the failure rates even among test-only facilities. One's down at 18 percent, one's at 34 percent. There's not the same rate at all in them, and so to call them one thing seems a little difficult.

A large part of why they differ, I think, comes from their fleet compositions or the customers choosing to have the test done at that particular facility, and I've tried to measure that just

with the mean mileage of the vehicles having directed tests at that facility, and you see there's more or less a line connecting average failure rate – or the failure rate with the average mileage, fleets that are higher mileage tend to have higher failure rates and that's reflective in the particular test center, but there's some substantial outliers. Here's one where the typical vehicle has 165,000 miles but its failure rate is just average for test-only. I don't know why, but there they are.

I've done similar computations for the other types of facilities. Let's look at a comparison now with the facilities that are Gold Shield, which are the little dots with the line in the middle. If I were good at PowerPoint we'd have this much more beautiful and in color, but I'm not.

Notice that the Gold Shield dots are more or less in the same line as the dots with test-only, which suggests that once we control for the fleet composition, they aren't that different. But notice that there's virtually no overlap in the fleet compositions. Individual cars, yes, but the average in these fleet compositions are very different.

Because of the nature of directing tests, the HEP program, those who are directed, all these black dots, have a very different vehicle profile than the ones that are choosing to go to Gold Shield among for biennial tests, and so that the failure rate of

Gold Shield, which averages about 12 percent versus 24 percent, looks to be mostly an effect of the HEP program itself directing vehicles that are very likely to fail. And they do fail, but that doesn't say that test-only is necessarily doing the tests differently than had those vehicles been directed to a Gold Shield shop, at least from this analysis.

CHAIR WEISSER: Have you done a analysis – I can't remember the statistical term, but there's some sort of coefficient that would measure the trend line of, let's say, these Gold Shields and compare it to the trend line of, let's say, these test-onlys, and you can then compare those two to see whether in actuality you could predict the failure rates being the same or different.

MEMBER WILLIAMS: I've thought about that but I haven't done it because, actually I think what one wants to do is the analysis at the individual vehicle level and ask for its mileage and model year and other characteristics, does it have a higher failure rate if it goes to test-only, and that is a similar thing but it's much more complicated and I haven't done it yet.

CHAIR WEISSER: Are you intending to do it?

MEMBER WILLIAMS: Well, I hope to.

CHAIR WEISSER: Please continue. We'll take questions following the presentation.

MEMBER WILLIAMS: I'm almost done, so –

CHAIR WEISSER: Take your time.

MEMBER WILLIAMS: I want now to add a third category, which are the test-and-repair facilities that are not Gold Shield, and there are many more of them, so I use little clear dots now on the same graph, and again we see that there's very little overlap with the black dots in terms of the mean mileage, and hence, there's no overlap with the failure rates, but there's much more scatter now, and there's some facilities like this one that have a very low failure rate for the mean mileage. That's one that's doing very few tests, so there may be a composition effect there, too.

There's a general pattern here, but there are a lot of ones that are different. Now, does one want to say that the white dots are fundamentally different from the black dots? They are in the sense of the vehicle composition, there's some overlap there. Are they in terms of the failure rate? It's ambiguous, right? And a final way to make that point is to add – to take out the directed vehicles and look at the volunteers, so for the same 19 test-only I've got black dots now that are volunteers. I don't think – that's not one I've shown to you, so here the 19 black dots are the volunteers. They fit in that same pattern but they tend to have for same mileage a little greater failure rate, right? It's very hard to say that the blacks are different from the white dots.

CHAIR WEISSER: What about the blacks differing from the white with the stripe, test-only versus Gold Shield? That looks almost random.

CHAIR WEISSER: Almost random.

There's a huge difference in fleet composition among all these facilities, and that's explaining a lot of the issue, but it's not like everything's in a line so it's just fleet composition, so you wonder why some of these are differing. I don't know. Or why some of these very relatively high failure rates for very low mileage. Those are puzzles, too. I haven't marked here specifically the ones that are for dealers. They're probably different, too.

I worry now that this category we have set out to study of test-only versus Gold Shield versus test-and-repair is really the way to analyze these data at all, and that there are much more heterogeneity across the categories than not, and that's a little disturbing because we've done so much of our thinking and discussion about test-only versus test-and-repair. Something else is explaining the variation.

Enough of Fresno. I'd like to finish with my study of the Sample D.

MEMBER LAMARE: Jeffrey, just to clarify again the data that we just saw is only biennial and does not include the change of ownership.

MEMBER WILLIAMS: The dots, yes.

MEMBER LAMARE: The dots.

MEMBER WILLIAMS: The numbers I was reading did. I could do the same thing for biennial, but I haven't made the plots. They look similar.

And that reminds me of an important point. If I look at, say, a test-only facility who has a very high average mile for the directed vehicle relative to other test-only, all of which have high average miles but this is the unusual one, that facility will have an unusually high average mile for change of ownership and for initial tests. The correlation isn't perfect, but it's very high, and that's strikes me that's neighborhood effects.

People living in that neighborhood go to that facility, they own old cars. Many of them are directed but there's change of ownership too, and that facility's failure rate will be intrinsically different than the neighborhood two or three miles away that has a very different consumer profile, and it's all dimensions. If you control for that, maybe the facilities don't look all that different in their fundamental pass rates. They still could, but it naturally will narrow more.

That's a similar conclusion I draw from this Sample D, so there are something like, what is it, 17,300 vehicles I've identified, approximately. Again, some of them are going to be double counted if they have several tests done.

MEMBER LAMARE: Jeffrey, just to clarify, that Sample D is a random sample of all vehicles in the state before anything is done.

MEMBER WILLIAMS: Anything is done to pick them out to go in the – they're eligible for biennial tests, but they're not put through the methodology of the HEP where they get directed.

MEMBER LAMARE: So it's a completely random sample of vehicles subject to biennial Smog Check, and so it's designed to be used for research purposes like this.

MEMBER WILLIAMS: For this, yes. And I wish to applaud people at BAR who thought of this. This is a very good thing to have done. It's too bad the sample's not three times bigger or something, although it was big enough to keep me busy, and this is only my first cut through this.

What we're interested in, I think, are two main features – How many people, this is statewide in enhanced areas, are choosing to go to test-only facilities. They don't have to. And the other thing is, is there a difference in the failure rates among these? So first of all, I have to do the numbers off the top of my head, but it looks like about 35 percent of vehicles end up at test-only facilities when they don't have to. That's a number that seems to be consistent with Fresno. Fresno is in here, too, but there's a lot of other places besides Fresno. And so, there are a lot of volunteers.

Now, are the volunteers different from the ones that choose test-and-repair, and let's look at that first. Let's look at the median mileage, for example – I've used 'median' here instead of 'mean' – of those who choose test-only versus those who choose test-and-repair. One is close to 107,000 median, the other 104. They're pretty close, but they're not identical.

MEMBER HISSERICH: Excuse me, Jeffrey, but the median year is one year –

MEMBER WILLIAMS: Is one year different.

MEMBER HISSERICH: – different, so their average annual mileage – well (inaudible).

MEMBER WILLIAMS: Yeah. And that's probably the median year is such a lumpy number, right?

MEMBER HISSERICH: Okay.

MEMBER WILLIAMS: Percent truck I thought would be – it's something else in the dataset so I looked at it.

CHAIR WEISSER: Are SUVs categorized as trucks.

MEMBER WILLIAMS: I don't know.

CHAIR WEISSER: Bet you a nickle they are.

MR. CARLISLE: Yes, they are.

MEMBER WILLIAMS: And maybe that's why there's such a huge – I was shocked that there were this many trucks, but now I understand.

So are these samples the same? If they're the same, then one would expect that the fail rate would be very similar, right? Well, the failure rate at test-and-repair is 12.5 percent versus 15.9 percent at test-only. Those are different, but not double, which is a number we've often heard. They're different in a way that I think we expect, but the medians tend to say that test-only should be having slightly higher failure rates, too, so maybe some of this is substantive difference and some of it's fleet composition.

CHAIR WEISSER: And there is a year different in their median.

MEMBER WILLIAMS: Yes, and all that, so -

CHAIR WEISSER: These are pretty darn close.

MEMBER WILLIAMS: They're pretty close but they're not identical.

CHAIR WEISSER: No.

MEMBER WILLIAMS: But if we think back to the directed vehicles in general are failing at 25 percent rate and test-and-repair is about 12 percent, these are much closer than that though they could be different, and so I end up with the conclusion that we haven't shown that test-only is different from test-and-repair either direction.

CHAIR WEISSER: I think it's important for you to repeat that.

MEMBER WILLIAMS: Okay. From Sample D we would conclude that test-only is failing cars at a slightly higher rate than test-and-repair and so is different in some way. From these facts

themselves it's hard to know why. I think we'd have to look much deeper, but it looks like there's a higher failure rate for good or bad reasons. But there are also differences in the fleet compositions of these two that, because of people choosing to go to particular facilities, and it's possible that if we were to control for that, these would look much closer and not be so different.

And the suggestion from these numbers is that that at least explains some of this gap, but not necessarily all of it, so I conclude that we find some difference between test-only and test-and-repair, but it's not that big.

CHAIR WEISSER: Thank you.

MEMBER WILLIAMS: And how all that works through for quantification of the program and all that, I haven't begun to think about, but —

CHAIR WEISSER: Oh, I can tell you one conclusion I have right off the bat, and that is these data are specs of gold that need to be really thoroughly mined along the lines you're doing to kind of nail this down.

The second, and it's not a conclusion but it's, I guess, the way my reaction to the information that you've put forward, is that it appears that the difference in failure rates between test-only and test-and-repair can be explained in large part due to the nature of the directed vehicles program.

And three, that differences in station type, based on geographical location, nature of the type of business, have an awful lot to do with how a particular station, the type of clientele they get and their performance. But it certainly seems to me that the differences in the effectiveness of test-and-repair versus test-only are far, far less than that which we've been under, you know, some people I guess have been portraying to us. They may be some, but they're relatively miniscule.

MEMBER WILLIAMS: I'm not sure I'd go down to miniscule, but —

CHAIR WEISSER: Yeah, but you're actually a statistician and I'm just a layman.

MEMBER WILLIAMS: Yeah. They're smaller than double, which is what has been said sometimes, right?

CHAIR WEISSER: Okay. I will defer to your nomenclature. And we'll start with the committee and —

MEMBER WILLIAMS: Can I put out a couple recommendations that I thought —

CHAIR WEISSER: Oh, I thought you were done. Yeah. Terrific.

MEMBER WILLIAMS: But it's hard to know what to recommend here. I guess one thing I would recommend is to go along more with this idea of the Sample D if it could be made a little bigger. I think a lot is learned from here. This is as useful in many ways as the roadside testing. Roadside testing is perhaps a better random sample, but we're getting human behavior here and I think

the more we can do to understand that, the better. I really applaud people who thought of trying this to begin with and should have concentrated on this at the beginning myself.

I'd also recommend that we look a lot more, which is to say BAR looks a lot more at what's going on with the change of ownership tests, because —

CHAIR WEISSER: Once again, that's 35 percent? That's inconceivable.

MEMBER WILLIAMS: That's Fresno, but it seems to be true elsewhere. I haven't done the computations. It seems very large. I know it seems very large. Now, I don't know why. I've never sold my car. I'm obviously missing out on a common activity.

I think we also should be using the same dataset to study the abortions more, because I believe those have been used to identify facilities or a technician that's playing games, and as an enforcement role I think that's a useful thing to do with the data, but there's also another nature of analysis which is, are people seeing that a car is about to fail and then fixing it right then and then it passes? Well, in some sense the Smog Check Program ought to get credit, and it never had the fail or had the abort. I'm not sure what goes on with all this, but I posit that that's happening to some extent and that's something

we could quantify. If it were ten abortions, I wouldn't care, but it's a very large percentage of abortions.

I guess my last recommendation along this line is, behind any quantification of the pass rates, behind quantification of the benefits of the program is a methodology for holding – trying to compensate for at particular facilities the fleet composition or clientele, however we want to call it. I would recommend that BAR try to make that methodology, whatever it is, more explicit so that we can all talk about it. I'm not saying they're doing it wrong; I just don't quite know what they're doing to account for that and I think the more precise they are about that, the better it would be. That's a statistician's way of saying let's see how you did it. All right?

CHAIR WEISSER: Okay. Questions from the committee? Robert?

MEMBER PEARMAN: Yeah, one was, I know before you emphasized how kind of preliminary the research was, but I'm wondering at some point are you getting more comfortable with it and can like share this data with ARB as well and get their response to it, because these have great implications for what they're doing and their legislative mandate.

For example, the Legislature and the Governor created some exemptions that we didn't vote on and changed the change of ownership exemption. If your indications are accurate, then what we're losing by that rollback, if you would, may be much more

significant than certainly they anticipated and than we would have expected from it.

So is ARB aware of these? Are these things that you are going to discuss with them as well as BAR in the future, you feel comfortable enough to do that?

MEMBER WILLIAMS: I'm getting at that point and I hoped to have been at that point late last week so I could check with them before committee, but I finished on Monday at five. Behind all this is a lot of computer programing and so forth which I hope is doing what I intend it to do, but I'm not a hundred percent confident there either. These are very large datasets, and as I've said before, very sympathetic of the requirements within for BAR analysts to understand what's going on here.

I'm in no way trying to contradict what they're done. I want to compare with my methodology. The more I look at the data, the more questions I have about how certain patterns could even be there that I hope they would explain to me.

I'm more than happy, all of this, to let them do the -

CHAIR WEISSER: Rocky, perhaps you want to do it right now. Regarding this percent of change of ownership, because I don't have it in front of me, Rocky, but I know that in one of the reports that Dennis and I have been working on, we're looking at the change of ownership issue and in particular the recent

legislative change. Is there anything you'd like to comment on, Rocky, in that regard?

MR. CARLISLE: Well, the change of ownership that you identify does look high, like you mentioned, because historically it's been looked at as about 17 percent of the fleet, 17 percent of the fleet turns over change of ownership inspections.

MEMBER WILLIAMS: Well, this may be Fresno, but even 17 is a very big number for the purposes of discussing the program as a whole.

MR. CARLISLE: Correct. The other issue there is, I do have to look. I know that the emissions inspection system does prompt the technician for the test type. I think it defaults to a biennial, depending on the registration due date versus the date they actually came in for their test, but I'll have to get the particulars on that from BAR.

MEMBER WILLIAMS: BAR explained that was due to coding. What if you really were selling a car but you also had a biennial test? It's a biennial test. So if anything, this is undercounting change of ownership. Who knows why a person walks in on a particular day to have a test done?

CHAIR WEISSER: Nothing else to do in Fresno, I guess. Questions down the line? Yes, Bruce.

MEMBER HOTCHKISS: Rocky, on that percentage of the fleet for change of ownership, is that data from DMV or is that part of the smog information?

MR. CARLISLE: I believe that's BAR data, but I'll have to check on that.

MEMBER HOTCHKISS: Because I'm wondering how that might correlate to DMV. Obviously, DMV must have information on how many vehicles go through a change of ownership.

MR. CARLISLE: Yeah, but they're going to include 40 million because they take care of all the heavy duty stuff as well.

MEMBER WILLIAMS: It may be an issue that's probably a small one. In the Fresno sample I only looked at private ownerships, so fleets and so forth are not in there. I did this by looking at the station or the facility, so this is maybe a Fresno facility and this is maybe a UPS facility, but I didn't include those. And they may have a different change of ownership characteristic. But the dealers are primarily doing change of ownerships and what in the BAR code is called I-test for initial test supposed out of California. It's possible that some of those I tests are people who know they're going to fail or have to go to test-only. There's a possible overcounting.

But I looked at many different facilities and they're coming up with a fairly large number of these tests, so I feel it's fairly robust. And all I'm claiming is we ought to understand it more. I think I'm comfortable with that recommendation.

CHAIR WEISSER: Questions from the public. We'll start with Mr. Peters.

MEMBER WILLIAMS: Shall I stay here?

CHAIR WEISSER: Perhaps. I think that would be a good idea.

MR. PETERS: Mr. Chairman and committee, the reason that I was holding up my hand was to make a possible point of order, and that is that, based upon our experience in the last meeting, you Mr. Chairman seem to have an incredibly professional way of being able to be heard, speaking very clearly into the mike, so a record of your comments is right on perfect.

But Mr. Williams, whose comments here are probably exceedingly important to an awful lot of people and whose efforts are very much appreciated, I'm sure this facility, which is one of the most high tech meeting facilities in the world, probably has the ability to put a portable mike on some energetic important presenter like Mr. Williams. There has to be some better way to make a better record so that the people that are looking at this off site, the record of the meeting et cetera might possibly be significantly enhanced by things that are even readily available here, so I just wanted to make it a point that oftentimes Mr. Williams will go off and be explaining specific information and be ten feet from the mike, and based upon what we've been experiencing here, those comments are probably off the record, and I think his comments should be on the record because they sounded very important to me.

CHAIR WEISSER: Thank you, Mr. Peters.

Yes, Jeffrey.

MEMBER WILLIAMS: I might answer that. There is no portable mike and they only warned me 25 times to stand next to this one, but I don't know that the 26th one would have helped.

CHAIR WEISSER: Thank you, Jeffrey. The transcriber makes a valiant effort to do the best, but it is important for us to try to, you know, do the best we can with the equipment that we have. We've been assured from the last meeting that improvements have been made in terms of pickup so we won't have quite the problem we had with our first run-through on the transcript this time. Thank you.

We'll move back to Chris.

MR. ERVINE: Chris Ervine with STARS. My question is, is it possible that the 3.4 percent difference in fail between test-only and test-and-repair is possibly due to false failures at test-only that we have experienced at the test-and-repair industry? This would be very easy to pick up on the VID through the BAR and if it fails at a test-only and goes to a test-and-repair and there's no repairs done and it passes, then it would be considered a false failure.

One thing that we find in the test-and-repair industry that seems to be very common among test-only stations is once a vehicle fails on emissions, the visual and functional checks go down the tubes. In other words, they are not completed. Many times we

will do a initial smog inspection after a test-only and it will pass for emissions and then we go tell the customer, well, your car failed because the timing was off or we found whatever, and then we have a battle with the customer over that. That would also account for some of the differences in failures.

As to the reason for customers voluntarily going to test-only.

We've been in the program now for six, almost seven years.

Probably a very large percentage of the consumers that are out there at one time or another have been directed to test-only.

And it's kind of like Pavlov's Dogs, you know. You get the letter, you don't even read the letter and you just, well, the last two times I've had to go to test-only so we'll go there again. That might explain some of the difference.

CHAIR WEISSER: I'm sure the consumers appreciate your referring to them as dogs, Chris. I understand the point that you're trying to make. I think there's also going to be, you know, depending upon their neighborhood, depending upon competition, some of the test-onlys might be cheaper, some of them might be faster, some of them might be more expensive, some of them might be slower. It's the consumer's choice.

Did you have a comment you wanted to make, Jeffrey?

MEMBER WILLIAMS: I have a couple comments since all of what you said suggested more analysis, I've thought a little bit about some of those subjects. The records that BAR has provided me and

are just part of the standard tests included much more detail about why there was a failure, getting down to the specific parts per million and so forth. I just looked at this first level of analysis at was there a pass or a failure or a tamper or something like that.

I agree one can look much more closely and perhaps tease out then why it was happening the way it was, why was the failure. And similarly, one could look at the sequence of going to test-only and then, say, going to Gold Shield and no repair done, because that's part of the data file too however accurately reported. I haven't done that. I've thought to do that. I'll try to do it. The other analysis you're suggesting has also occurred to me. I have 13 months of data, BAR has many more. Somebody, and I'm not volunteering for this one, could figure out what's the probability of being a volunteer now. Your story creates an idea that we ought to see that pattern. Well, the data exists to see whether that happened and we won't have to use anecdotes, we can find out.

CHAIR WEISSER: Thank you. Rocky?

MR. CARLISLE: Yeah, two comments. First of all, unless the technician is clairvoyant, he's got no way to know that it passed an emissions test prior to conducting the visual and functional test. The only indication that he may have is the fact that the test goes the full 100 seconds on load one and full 60 seconds in

load two prior to allowing him to go to the visual and functional.

Number two, with regard to repeat test-onlys, as a rule, the majority of vehicles over ten years old based on high emitter profile are going to go to test-only time and time again.

CHAIR WEISSER: They're directed, though, they're not volunteers.

MR. CARLISLE: Correct.

CHAIR WEISSER: Okay, let's go back to the audience and we'll come up to Charlie and then swing over.

MR. PETERS: Mr. Chairman and committee, my name is Charlie Peters, Clean Air Performance Professionals and we're here today trying to represent motorists. I find Mr. Williams' evaluations very interesting and Mr. Williams I'm sure is a internationally acclaimed statistician and a person whose credibility is impeccable. But Mr. Chairman, I wonder if Mr. Williams was provided with some more comprehensive data, if that might enhance his ability to evaluate what's going on here.

As an example, currently the State of California is doing a remote sensing study. It's my understanding that in that study there are 1100 – there's 1000 cars identified to go to a CAP station and get repaired, and so we're using that as a portion of the evaluation, and this is being done all over the state. These cars have already been identified with a remote sensor as well as been pulled over and evaluated in a Smog Check roadside, this

1000 cars that are in the process of being going through a repair process.

If those cars were, at least a portion of those were appropriately looked at before they go in for repair, determined what they need to fix them, determined whether or not what's broken gets fixed, to have a better analysis of what's going on here, to lay over and assist Mr. Williams or other people looking at this data and creating some more comprehensive ways of evaluating what's really going on here, could this be of a huge assistance to Mr. Williams.

I have brought up in previous and I hear from the previous testimony here when the Air Resources Board was here the issue of the Air Resources Board has done that process previously, evaluated what's broken, done federal test procedures, ASM, IM240's, and sent them out in the marketplace, got them tested at test-only places, test-and-repair places, got them repaired, got them certified, evaluated whether or not what was broken got repaired.

I was provided data today that supposedly is from the Air Resources Board that I suggested as some very important data for the committee to look at. So my question to you, Mr. Chairman, is it possible that maybe right now because of things that are going on in the State of California can more comprehensive data raise to determining what's really going on here instead of

guessing, be incorporated in a way that would serve California better?

CHAIR WEISSER: Thank you, Mr. Peters. I think those are excellent suggestions that the committee will chew on in terms of its recommendations in this area. I for one think that there are fertile grounds here that need to be explored further and along the lines you're talking about, and I would recommend that the committee consider as part of its recommendations making a strong pitch to, through the budget process attempt to increase the resources that would enable [interference].

Thank you, Mr. Peters.

MR. PETERS: When you respond to my comment I'd like to put it on the record what my response is?

CHAIR WEISSER: You got it, go on.

MR. PETERS: Thank you, sir. We gave \$115 million back to the State of California for its budget earlier on, we're increasing what's coming on the cars from four years to six years from \$6 to \$12. You can't tell me within the BAR's budget there's no money to do this and get me to believe it. Thank you, sir.

CHAIR WEISSER: And thank you. Sir.

MR. RICE: Bud Rice with Quality Tune-Up Shops. My only comment is, is there a way to get a copy of the testimony from Jeffrey today like we got Rocky's earlier today?

CHAIR WEISSER: We can give you a copy of the diagrams, at least some of them that were shown, and a transcript that will include Jeffrey's remarks will be available as soon as it's put on the website, which takes about a week or so after the meeting.

MR. RICE: Thank you very much.

CHAIR WEISSER: Mr. Ward.

MR. WARD: Randall Ward with the Northern California Testing Industries Association. I want to thank Dr. Williams for going through this monumental effort. I play with this data on a monthly basis and the monthly records are enormous, so to be playing with them for 12 or 13 months is pretty incredible, and you'd have to see the data and the data dictionary and see what it takes to try to array this thing and then try to put a fix on something, run it through and then all of a sudden decide, well, that's not really what I wanted and have to do it again and again and again, so I take my hat off to him.

A couple of thoughts here. I think that there were some questions raised in terms of consumer behavior and the people choosing to go to test-only versus test-and-repair, what is the effect and the outcome of the test, whether in fact a vehicle that was repaired prior to its test – in other words, was the test aborted or did the test-and-repair technician simply see a visual failure and say we're going to need this car fixed? And

that's, you know, been a question all the way through the program.

One of the things that or elements that was used to determine whether those cars were fixed was the results of the roadside tests. So in addition to compounding the, I guess, difficulty of doing this kind of a data analysis, then you also bring in the results of the roadside test to in effect buttress whatever assumptions and presumptions or conclusions you've come up with in this, so it does even further complicate it.

Just having looked at the Smog Check Reporter recently, it shows that of volunteer vehicles tested at test-only, they're failing -- or change of ownership, not volunteer, change of ownership vehicles at test-only, twice as many are failing at test-only than Gold Shield. Now, there's a whole lot of factors that relate to that, too. I mean, geographic area has a lot to do, as you've mentioned, Mr. Chairman, and the type of vehicle, mileage, age, all those kinds of things, and it ranges among each category of Smog Check facility throughout the data.

One of the things that was interesting and I think this is somewhat confirming because I've seen this in the data going back to the first evaluation, is that there is only marginal differences between Gold Shield and regular test-and-repair. There's been a interest on the part of the bureau to try to encapsule those kinds of things, the qualities associated with a

test-and-repair facility and put them in a requirement for a Cadillac facility, and it's been impossible for them to do, which is one of the reasons there were some problems a few years ago in the Legislature on the Gold Shield evaluation.

CHAIR WEISSER: Excuse me, Mr. Ward, your time is up, but we'll go around and give you a chance to finish, because I have a question. The question is also on what you just said.

The data that I saw seemed actually to show a pattern of some level of consistency between the performance of Gold Shield and test-only, whereas both seem to be different in behavior to what I'll characterize as more random behavior of just a regulation test-and-repair. Is that what you were saying or did I mis-hear you?

MR. WARD: Oh, I think as I looked at the scatter when it was looking at volunteer vehicles, there was marginal differences if you were to subtract the outliers, and I'll, you know, rely on Dr. Williams here, between the Gold Shield and the regular test-and-repair.

CHAIR WEISSER: Okay. I don't want to go back and forth and play ping-pong, but I drew a somewhat different analysis, which is why I'm particularly interested in the coefficients to get a sense of that issue, Randy. But we'll come around and if you have some further points I'd love to hear them. We're going to make a loop and come back to Len.

MR. TRIMLETT: Len Trimlett, smogrfg. First comment going back to the speaking. Using hearing aids, I can tell you that if you go across that room there, if you don't speak into that mike it's sometimes very hard to hear exactly what you're saying, so I would again request, as Charlie did, to speak closely into that mike.

With respect to the test data which Jeffrey has presented, I have in mind a couple contrasts.

I believe Mark Carlock in the CARB presentation a while back showed a 25 percent failure rate at a test-only facility versus a 9 percent at a test-and-repair. Now, here Jeffrey shows closer to almost even between a test-only and test-and-repair the failure rate. I'm just wondering if there's any logical explanation for why those numbers, the two cases are so different. That's my question.

CHAIR WEISSER: Thank you. I think the explanation that was provided during the presentation has to do with the nature of the sample between the two. What Jeffrey's tried to do is to normalize the sample so that we're dealing with a more common fleet, whereas what we've seen from the traditional reports from BAR and CARB have been looking at nearly the entire universe of cars that go to test-only versus the entire universe of cars going to test-and-repair.

Is that correct, Jeffrey? Thank you.

MR. TRIMLETT: From the data that Jeffrey has presented, I would be inclined to agree with Jeffrey's presentation. I think it was a good one.

CHAIR WEISSER: One in a row, Jeffrey. Congratulations.

MEMBER WILLIAMS: Thank you.

CHAIR WEISSER: We're going to move around the room. Is there any questions coming up front? We're going to go back and give Mr. Ward a chance to finish his remarks. Randy, speak or forever hold your peace.

Okay. Is there anybody on the telephone that would like to make a comment?

And Rocky, you're being inundated by emails? But most of them are chat line things, I understand.

Jeffrey, I just want to once again on behalf of the committee, the people in this room and the people of the State of California, thank you. You have gone beyond the call of duty in this. You've worn out computers, bought other computers, worn out your welcome at home, I'm sure, the hours that you've put in on this, and I think it's just golden and I really, really appreciate it. Thank you.

[applause]

Rocky, what I'm going to suggest that we do is do one more and then take our lunch break, so maybe some of the people who are taking lunch will already have left and we'll miss that first

wave and be able to actually get our food in a timely fashion. Does that work for members of the committee or is anyone here shaking with hunger? People in the audience, hang with us. Rocky, why don't you introduce us to the program avoidance item.

MR. CARLISLE: Okay. This was brought about by a report. I failed to bring it with me but it was a report, as I recall, done in 2000 that indicated that there is a significant amount of vehicles that fail to get registration. However, they broke it down into those that are simply late registrants, those that are more late registrants, if you will, and then finally what they called chronic registrants. And if they were late it was anywhere from one to three months late. I believe the next category was six months to eighteen months, and then there was a final category over two years which was considered the chronic category.

And in reality, it was a relatively small percentage of vehicles that failed to get registration, and as a result, when they fail to get registration they also fail to have a Smog Check performed on their vehicle, so there is an emissions issue there. But when you look at a small percentage, any kind of percentage against 23 million vehicles can still be a large number of vehicles and consequently a large emissions loss.

So, that's what we've been looking at, and it's very difficult to determine all the reasons for program avoidance. I mean, it can

go anywhere from not having the money for insurance, not having the money for emissions-related repairs, not having the money for the registration itself, so it really does run the gamut in this issue.

But some of the things the subcommittee's been looking at is possible amnesty in conjunction with CAP repairs for delinquent registrations. That would certainly take probably a change in law. Vehicle scrappage retirement for chronic unregistered vehicles. Aside from that, we haven't concluded anything else, but I would certainly defer to the subcommittee to chime in on that, if you will.

MEMBER PEARMAN: Chairman Weisser had to step out, so I've got the gavel. Who is the subcommittee, by the way?

MR. CARLISLE: The subcommittee is Mr. Gideon Kracov and Mr. Tyrone Buckley.

MEMBER PEARMAN: Okay. Did you have anything to add, Mr. Buckley?

MEMBER BUCKLEY: I do not.

MR. CARLISLE: In all fairness to Mr. Buckley, he's only been on the committee for a couple of months, so this is one of those issues that it hasn't been put on the back burner but it's received less attention, if you will, than some of the other issues that the committee and subcommittees felt were more important.

MEMBER PEARMAN: Mr. Hisserich?

MEMBER HISSEIRICH: Didn't we have some CHP data about people with unregistered vehicles? It seemed to me there was something about how many of those cars there were or something, I thought we had some numbers on that at one juncture, just to get some idea. I mean, they will of course stop and cite and I'm sure there's a number of citations figured out for failure to register.

MR. CARLISLE: Right, but that was very small compared to the study that was done, because the study was done, they actually went out in parking lots with cameras -

MEMBER HISSEIRICH: That's right. That's right, I remember that.

MR. CARLISLE: - and photographed license plates.

MEMBER HISSEIRICH: That's right.

MR. CARLISLE: And then they came back and (inaudible).

MEMBER HISSEIRICH: And tell me again what percentage it was that was determined.

MR. CARLISLE: As I recall, for the chronic unregistered vehicles it was like two-tenths of one percent. But again, even that percentage is a relatively large number of vehicles.

MEMBER HISSEIRICH: And any take on the vintage of those cars? I mean, one might intuit that they would be older and so on.

MR. CARLISLE: There was a lot of demographics done and they kind of pinpointed some of the areas that had a higher percentage of unregistered vehicles than others. In addition, it typically was

an older vehicle as opposed to a newer vehicle that was unregistered.

CHAIR WEISSER: I'm interested in the recommendations, and I'm sorry I wasn't here for the discussion. If you've gone over this just tell me to be quiet and I'll read the transcript.

MR. CARLISLE: No. We did suggest possible recommendations for amnesty in conjunction with CAP repairs for delinquent registrations and vehicle scrappage and retirement for chronic unregistered vehicles.

CHAIR WEISSER: So I think I understand the first one, amnesty. You know, you give these amnesty programs and a lot of people come back into compliance and you could match that with an outreach effort saying we have some amount of low income funds available for low income people to bring them into compliance and that might really serve to get people back into the program. But the second one, vehicle scrappage retirement for chronic unregistered vehicles, how do you find them or does the policeman carry around a hammer and bang and scrap the cars when they find them? How do you — I don't understand why —

MR. CARLISLE: This one we haven't flushed out yet. I mean, it's —

CHAIR WEISSER: Well, 'flush' may be the appropriate word.

MR. CARLISLE: Yeah. Like I mentioned before you came back in, this one hasn't received the same attention that some of the

other topics had, because the various subcommittees, there were some topics that we felt were more important than others and we wanted to make sure we had a solid handle on the ones that we include in this first report because there will certainly be subsequent reports that come out of the committee, I'm convinced. Maybe I'm just naive.

CHAIR WEISSER: My concluding remark would be that I agree that this is a lower priority item, but this could be an opportunity through an amnesty program to exercise both the Consumer Assistance Program funds and the accelerated vehicle retirement funds in order to improve the fleet.

Whether or not it's chronic or just temporary unregistered vehicles, it provides, it seems to me, an opportunity for a more targeted marketing of the program, so I guess I'd be interested in keeping that in mind when we get to this in the report. This one doesn't sound like we're going to be actually including in this phase of our report, is that correct, Rocky, or do you hope that —

MR. CARLISLE: That's my best guess. I mean, I would like to if we can come to some consensus on it, but I would also argue that some of these other items are a little more important than this one.

CHAIR WEISSER: Um-hmm. Well, I'd like to hear from other members of the committee and see whether or not we can fashion a

consensus on recommendations now based upon the limited information that we have, or should we just put this one off? Jude?

MEMBER LAMARE: Thanks. Jude Lamare. It's amazing how often I hear from people that they're concerned about this when it's clear that the bureau and ARB really don't see this as a major emission loss, as evidenced on their report on page 53 where they look at improving vehicle registration compliance and they point to unregistered vehicle rate at 3.4 percent with instantaneous and long-term 1 percent after two years.

But I continue to hear from people that they think that this is an emission problem, and I would like to ask ARB and the bureau if they have learned anything from the remote sensing or the roadside data about unregistered vehicles and their emission profiles as compared with other vehicles. I vaguely recall that we did hear something about unregistered vehicles showing up in both of those studies and I don't recall that we learned anything about what the emissions loss is from nonregistration.

There also seems to be a loophole that if you don't register your car on time there's a late penalty fee, but if you don't get your smog certificate on time there's no such late penalty fee, as I understand it. Is that right, Rocky?

MR. CARLISLE: Correct. You can actually send in your registration fees without the Smog Check and there will be no

further penalties assessed but you won't get the tags until such time as you complete the Smog Check.

MEMBER LAMARE: So I am surprised that the ARB and bureau did not recommend in their report that the law be changed to also include a late penalty fee for not getting smog on time and those funds could be obviously directed towards helping educate vehicle owners about the penalties and about how to get their repairs done, about the CAP program and so on.

I guess that's it for now.

CHAIR WEISSER: This last one, Jude, I think is one that I'd invite some comments from the committee members whether they would feel comfortable - I'd like to invite a reaction from BAR and CARB who are in the audience as to why they haven't come forward with a program to add some sort of penalty for people who do not obtain their Smog Check in an adequate period of time. Was your comment on that point or should we first let the agencies?

MEMBER HOTCHKISS: No, it was not.

CHAIR WEISSER: So let me see if there's anyone from the agencies that's able or willing to respond to the notion of perhaps trying to see if there should be penalty associated with not obtaining your Smog Check upon time of registration.

MR. CACKETTE: Good morning, Tom Cackette from ARB. We did look at this a long time ago in one of the early IMRC reports, and at

that time we had a different solution but it was never implemented by the Legislature and that was to simply increase the penalty on driving a nonregistered vehicle and provide that local governments who would issue those tickets, because they're not being issued right now like meter maids for example and other things, get a part of that fee, so it would be like a bounty in a way to encourage people to actually write a ticket as they're going around looking for expired meters, for example. Why not if you don't see the tag on there, hit a ticket, and if it was \$100 – I can't remember what the fee was, but, you know, half of it would go to local government which would pay them for doing that.

CHAIR WEISSER: And the state has of course jumped to the opportunity to give more money to local government.

MR. CACKETTE: We had some opposition, I can't even remember why it was, from the district attorney's association and I'm not sure what the reason for that was, but in any case, that was one way of trying to get people to, you know, to – because right now they're being exposed – apparently they can pay their money. I don't even know why they bother to pay their money if that's the case, but they pay their money, don't get their tags, so they're being exposed to a potential ticket, but apparently there aren't that many tickets being issued.

CHAIR WEISSER: Then would I be correct, Tom, to industry that the board would support the notion of providing some sort of financial incentive to get your Smog Check on time?

MR. CACKETTE: Well, I think –

CHAIR WEISSER: Or you would.

MR. CACKETTE: Yes, I would because at the time it was the IMRC was made up of air pollution control officers and the person from the ARB happened to be me, and that was our recommendation at the time, so I guess I could say, yes, that was a recommendation.

CHAIR WEISSER: Thank you.

MR. CACKETTE: But it never made it into law for some reason.

CHAIR WEISSER: It would be interesting if you could kind of scrape up the paperwork on that and pass it to us, because I'd be interested in pursuing it.

MR. CACKETTE: Yeah.

CHAIR WEISSER: Robert.

MEMBER PEARMAN: Could you comment on what to me is the basic question is, do we have any sense of what are the emissions that we're losing by these people who aren't in the program, because if it's not significant then we shouldn't spend a whole lot of time about some of these recommendations.

MR. CACKETTE: I don't think we have a sense of it to the degree we would like to have. You know, the data has repeatedly shown that if you look at stickers on the back of cars what happens is,

you know, the day after or the month after they expire there's a fairly significant number of people that don't have the stickers on, but a lot of those people just didn't put them on. Some of those people have not completed the smog process and what we see is after, I think it was typically about a year it's down to that one percent number, so it resolves itself to some degree after a year.

Now, if all those people starting at, six, eight, ten percent, going down to one percent didn't have smog stickers because they had dirty cars that they weren't getting repaired yet or couldn't afford to, then I guess we would have some significant amount of emissions for that zero to one-year period.

The other possibility, of course, is that the one percent that don't get registered have the gross polluters, then you'd have, you know, the one percent is of the cars are causing some number much bigger than one percent of the emissions. And again, we don't have that because the way we've got the records is to look at cars in parking lots do they have their stickers on them. If you get a no sticker then you go back to the DMV database and figure out did they actually pay their money. The vast majority of them did and just never got the stickers on, so that was the way the data was collected, but it didn't have emissions data to go along with those cars.

CHAIR WEISSER: What about Member Lamare's question associated with the remote sensing demonstration; is that an opportunity to identify how significant the problem with these cars are?

MR. CACKETTE: Yeah, I think we are planning to look at that, but we don't have all the -- they're still collecting data.

CHAIR WEISSER: Thank you.

MR. CACKETTE: They'll be collecting data into early next year.

CHAIR WEISSER: Well, what's the committee want to do in terms of this recommendation, in terms of this item? Do we want to kind of move forward on at least a part of it or not knowing the import as Robert put forward, do we just let this thing slide and put it out in a subsequent report? We'll find out. Let's go around the room and quickly get some comments. Sir?

MR. RICE: Just two comments real quick. Bud Rice with Quality Tune-up. I'm making these comments with the program avoidance topic, but I understand where I'm standing today in Sacramento, but are government vehicles also included and are they run through Smog Check programs either internally or externally? That's my first comment.

CHAIR WEISSER: Yes.

MR. RICE: Okay. Second comment is, and Charlie Peters brought this to my attention a while back and as I've been going since he made that comment to me it seems to catch my eye more and more, but there are a number of companies, specifically moving van type

companies or go rent a U-Haul vehicle, those kinds of companies, where all their vehicles are registered actually out of state in terms of Arizona, but they're on our roads polluting our air and I don't see -- there has to be a way to get at those guys and I'm not sure what that means in terms of gross polluter type vehicles or anything like that, but I do know they're on our roads and they ought to be subject to Smog Check.

CHAIR WEISSER: Thank you. Mr. Ward.

MR. WARD: Randall Ward, California Emissions Testing Industries Association. While the no-show rate may be three percent for the fleet as a whole, the percent grows significantly when applied to the directed vehicles, okay. It varies between -- and I haven't looked at the last few months, but during this program it's been over 30 percent at times consistently.

CHAIR WEISSER: Let me make sure I understand, Randy. Thirty percent of the vehicles who receive a direction to go to a test-only station don't show?

MR. WARD: Oh yeah, for at least the first two years of the program.

CHAIR WEISSER: Wow.

MR. WARD: Probably two and a half years. And then as they started increasing the percentage -- oh, yeah, they weren't getting 15 percent when 15 percent was deemed the minimum when they were directing 22 percent, okay? But what it did was it

answered a question that the bureau had had and the Air Board had had. As soon as they started directing vehicles, the percent of directed vehicles that didn't show up was huge, which implied that the largest percent of that 3 percent of the fleet as a whole are the older dirty vehicles, which I think is significant as far as you're concerned in this issue. Thank you.

CHAIR WEISSER: Thank you. We're going to loop around. Sir?

MR. STERNS: Thank you, Mr. Chairman and board members for this opportunity to speak. My name is Bob Sterns, I'm the current president of the Association of California Car Clubs, and just two items I have to ask Rocky.

First of all, you said two-tenths of one percent of chronic unregistered vehicles are older vehicles. I'd like to know what constitutes the age as far as being an older vehicle.

And also, does that include any non-ops that are out there? You know, some people have a non-op and they may be on non-op status for ten years. Is that considered a chronic unregistered vehicle?

MR. CARLISLE: No, this was all based on actual registration, vehicles in parking lots at shopping malls and whatnot.

MR. STERNS: So they're currently driven like on the roads?

MR. CARLISLE: Correct.

MR. STERNS: And also, the older vehicle date as far as year of car? When you say older vehicles, you know, it could be last year model is an older vehicle.

MR. CARLISLE: I don't have that report in front of me so I'd have to defer to that.

MR. STERNS: Okay.

MR. CARLISLE: I suspect it was older than ten years old, though.

MR. STERNS: Okay. Thank you.

CHAIR WEISSER: Good seeing you again, Mr. Sterns. Any further comments? Mr. Peters.

MR. PETERS: Thank you, Mr. Chairman and committee. My name is Charlie Peters, Clean Air Performance Professionals, and we're concerned with motorists and getting some better treatment of the motorists. It's just amazing how the issue of U-Haul has been ran up the pole, taken into consideration, thrown aside.

Rocky indicated that, as I understood him to say that there were 500,000 U-Hauls in the State of California but only 50,000 of them were subject to Smog Check or something, so I haven't seen that data, but I think that's just a little part of a much larger opportunity to improve things. And I've been shoved off in a corner, stepped on, given answers repeatedly for a long time, but I got to believe that there's a significant opportunity there. We're talking about — I mean, if we got Joe Six-pack and his car, boy, we're ready to get him. But we got some corporation that

has some size and has some political horsepower, oh, we don't dare touch that.

I thought this was supposed to be about air quality instead of beating up the motorist, and I certainly would like some consideration of the U-Haul and those kinds of issues to be put on the table and given genuine consideration rather than just sweeping it under the rug again.

Thank you, Mr. Chairman.

CHAIR WEISSER: Thank you, Mr. Peters.

Mr. Carlisle?

MR. CARLISLE: With regard to the vehicles he's talking about, that's the International Registration Plan we discussed several months ago, and that's under federal jurisdiction, we don't have really any say so.

CHAIR WEISSER: Thank you.

MEMBER HISSERICH: If I may, Mr. Chairman, expand quickly on that, because I remember we discussed it.

So by virtue of participation in this interstate program, it's a federal program, does that exempt them from state regulation?

Just to be clear, because it is concerning the number of vehicles, but I know that there were some problems that we had with trying to make it work.

MR. CARLISLE: They essentially have to comply with the laws of the state within which they're licensed.

MEMBER HISSEICH: In which they're registered?

MR. CARLISLE: Yes.

MEMBER HISSEICH: Okay. Okay. So, assuming that they're Arizona, because there are a lot of them from Arizona that appear in California.

MR. CARLISLE: Correct.

MEMBER HISSEICH: What's the state of the pollution control requirements in the State of Arizona, just offhand?

MR. CARLISLE: Arizona it's by county and there's only a couple of areas where they actually have a Smog Check Program.

MEMBER HISSEICH: So for all intents and purposes, the vehicles probably do not comply with California law and –

MR. CARLISLE: Several I've looked at, they were actually in areas that they do have to get a Smog Check in.

MEMBER HISSEICH: They do?

MR. CARLISLE: Yes.

MEMBER HISSEICH: And why do they?

MR. CARLISLE: Because they have to comply with their state, but they don't have to comply with our state. They're registered in Arizona or whatever the home state is.

MEMBER HISSEICH: I mean, assuming that Arizona's regulations in the area that they come from may not be as rigorous as ours?

MR. CARLISLE: Absolutely.

MEMBER HISSERICH: So they wouldn't necessarily be in compliance with California regulations.

MR. CARLISLE: No, it's - I would suspect it's a less stringent test, looking at other programs.

MEMBER HISSERICH: Are those typically high mileage vehicles, do you know?

MR. CARLISLE: Yeah, these are rental vehicles so they're probably in the taxicab category.

MEMBER HISSERICH: Right, so they will be high mileage. All right. So it's a question of federal/state relations that makes it difficult to get at; is that correct?

MR. CARLISLE: Yes.

MEMBER HISSERICH: Thank you.

MR. CARLISLE: And basically, they pay licensing fees based on apportionment, you know, the percentage of miles for their whole fleet that they drive in each state.

MEMBER HISSERICH: Right.

CHAIR WEISSER: Chris for the last comment.

MR. ERVINE: Chris Ervine with Coalition of State Test-and-repair Stations. Under our state law, a vehicle has to meet emission requirements or emission testing per the area that it is garaged and operated in. Could that not apply to vehicles that are also registered out of state but are garaged in enhanced areas here in the State of California?

MR. CARLISLE: I'm not attorney so I'm not going to touch that.

CHAIR WEISSER: I think you have an interstate commerce clause issue here, which is the fundamental problem.

Well, this has been an interesting discussion. I'd like to loop back now to get the committee's perspectives as to whether we want to include a discussion and at least some initial recommendations on this area of program avoidance in this portion of our report, or whether we should defer this. So I'll start down at my right with Tyrone.

MEMBER BUCKLEY: I think due to some of the comments that the public has made and also the unsettled outreach issues that there are with the CAP program, and also without knowing the real impact of program avoidance on air quality, or at least with unsettled research on that topic so far, I'd be pretty uncomfortable suggesting a late penalty for the Smog Check Program because of the regressive nature of such a penalty. That's all.

CHAIR WEISSER: Robert?

MEMBER PEARMAN: Yeah, I guess I would just like, you know, I'm uncomfortable that people can perhaps not reasonably timely go down and get their Smog Check certification, but I still think our objective more has to be the air quality impact, so I'd rather try and get some more information about the emissions lost before we decide to go that route.

CHAIR WEISSER: Okay. John?

MEMBER HISSERICH: Well, I would agree in terms of the relatively small percentage of individuals who avoid, think we need clarification, but I am concerned about this issue that we may not be able to resolve, but there are a substantial number of vehicles, and whether it's corporate issues or not, I think it would be fair to have counsel, if we could, explore the legality of those relationships just to be sure that there's nothing we can do – or what we can do rather than be sure that there's nothing we can do, to find if there's something that we can do to address the issue of the out-of-state registered fleet vehicles, typically U-Haul, et cetera.

CHAIR WEISSER: Well, I think you're received some direction that this committee as a whole, Rocky, would be interested in. Jude?

MEMBER LAMARE: Thank you, Mr. Chairman. I agree with Mr. Hisserich about the legal analysis. I think we need to have something more in writing about this issue and more understanding of also what the emission consequences are. I agree with Tyrone about the penalty at this point for late registration. What we haven't discussed is the idea that we make a recommendation on vehicle scrappage for chronic unregistered vehicles, and I'm uncomfortable with that. I don't know what that means and I don't want to spend money that's intended to

reduce emissions for vehicles that aren't being used, so if we hear more about that, it might be useful, but as it looks I wouldn't support it.

CHAIR WEISSER: Bruce?

MEMBER HOTCHKISS: I guess I'm going to be the hard case on this one. It is a very small percentage and I guess we don't really know what the impact environmentally is, but I think there's also a societal problem in that I would imagine that a large number of these unregistered vehicles may be uninsured as well, and I think there is an impact to society both in the emissions impact as well as a financial impact, and I think there should be a penalty.

My understanding from talking to police agencies, there is a bit of a period of grace usually of about a month. But you know, if someone is chronically – and for me, chronically would be six months – if a vehicle has been unregistered for six months and they're still operating it, I think there should be a penalty. The vehicle shouldn't be on the road. That's just my opinion.

CHAIR WEISSER: Very good. Well, I find myself in both camps. I tend to be hard-nosed like Bruce in terms of going after them, but seems to me at this point we really don't have all the data and all the facts. And I'm particularly nervous over a scrappage program for chronically unregistered vehicles for the reason Ms. Lamare put forward.

My suggestion is that at this point in time we need to do further homework to get the data to analyze what the potential – get a better handle on what the potential real emissions loss is. And for that reason, for this report I suspect we ought to just kind of put this one to be right now.

Rocky, you had something you wanted to add?

MR. CARLISLE: Yeah, there was one gentleman that e-mailed us.

Do you want me to read the e-mail?

CHAIR WEISSER: Yeah, please do, unless it's four pages long.

MR. CARLISLE: No. It says:

"My name is Chris Cook. My wife and I own a small test-and-repair shop in San Ramon. A few concerns I have are, one, the inconsistency in the CAP program in regards to the way things are approved or denied depending on which rep handles your case.

"Number two, the stats in regards to failed vehicles at test-only versus test-and-repair. I would think this would be expected with the

vintage of vehicles being
directed to test-only stations.

"And three, the bench life
of the program, which is only
five years from what I
understand."

CHAIR WEISSER: Do you know what he means by 'bench
life'? Does he mean the equipment?

MR. CARLISLE: I'm not quite sure. I'll e-mail him
back and see if I can get clarification.

CHAIR WEISSER: Well, maybe he's listening in and he
could clarify that. I'm unsure. But thanks for communicating
with us and the committee has heard your comments.

I'm feeling like a slave master. I'm wondering if I
can squeeze one more thing out of you folks before we go to take
a lunch break, and that would be to ask the agencies, and in
particular BAR, to give us a little update on how the Consumer
Assistance Program and the accelerated vehicle retirement
programs seem to be you're planning towards how they're going to
work in 2005 considering the budgetary and Legislative changes
that have been made this year.

Are either agencies in a position where they could give
us a brief update in that regard? And I see Mr. Lafferty eagerly
approaching the microphone.

MR. LAFFERTY: I wouldn't say eagerly. Good afternoon. I've been asked to give a brief presentation on some of the changes that have occurred in the Smog Check Program specifically as it relates to the Consumer Assistance Program. As many of you already know, there's a number of bills that have recently passed the Legislature and go into effect in fiscal year 2005, so I'm going to go ahead and review those most significant issues.

The first one is new car exempts. New cars that are exempt from Smog Check currently today are the first four years, and beginning in fiscal year '05 that will change from the first four years to the first six model years. Currently today those vehicles those first four years are exempt, they pay a \$6 smog abatement fee, and through new legislation that fee will increase from \$6 to \$12 with their annual registration.

The first \$6 of the annual smog abatement fee will go to the Air Pollution Control Fund to be used to fund the Carl Moyer Program, which is administered by the Air Resources Board. The remaining \$6 on the fees will still come to the Bureau of Automotive Repair and will be deposited between the Bureau of Automotive Repair's general account, formerly known as the VIRF, and the Bureau of Automotive Repair's Consumer Assistance Program account, known as the HEPRA.

The significant difference is that there is what's called a switch of the \$4 and \$2. Currently today, \$2 of those

monies of the \$6 comes into the HEPRA account, \$4 goes into BAR's general account. Beginning next year, that will actually switch so that \$4 will go into the CAP program and \$2 will go into the BAR's general account.

The next significant one is the first four model years are exempt from Smog Check beginning in January of '05, and upon a change of ownership and a transfer they will pay an \$8 transfer fee with the Department of Motor Vehicles, and those funds will be deposited in the BAR's general account.

The next one is what's called the 30-year rolling exemption. Effective next year, the 30-year rolling exemption will be gone, essentially. Instead, beginning in April of '05, 1975 model year and older vehicles will be exempt from Smog Check. This means that effective in April of '05, 1976 through 1999 vehicles will be part of the Smog Check Program.

Some clean-up legislation occurred. It was already codified, but it codified it further in that 1975 model year vehicles and newer vehicles entering the state for the first time, known as initial registration, will be exempt from the Smog Check Program. However, newer vehicles like the first six years coming into the state will not be exempt, they will have a Smog Check inspection that is terms initial registration.

CHAIR WEISSER: Do they have to pass the inspection in order to be registered, Michael?

MR. LAFFERTY: Yes, that's part of the registration process, so they pay their fees and, as has been alluded to earlier, oftentimes the smog certificate is the last thing to be achieved in the registration process. Once that certificate is electronically transferred to the Department of Motor Vehicles, then electronically in most cases the registration tags and the regulation title is issued to the vehicle owner.

So what this means, these legislation changes means that approximately somewhere between \$25-28 million annually will be deposited into the HEPRA account, and the Bureau of Automotive Repair currently is working actively with other state agencies and the Department of Finance to receive those revenues and to appropriate them and to prepare for an increased program. What that exactly will be is premature at the moment in that we're actively preparing for that.

CHAIR WEISSER: Could you describe any of the preparations in terms of consumer outreach for both the Consumer Assistance Program and the Accelerated Vehicle Retirement Program?

MR. LAFFERTY: That's what's one of the main topics that's being prepared and we are actively preparing documents for Department chiefs and agencies in the various types of ways that we could outreach both repair assistance and vehicle retirement.

Many of the things that are of interest of the committee's is also being looked, very similar ideas looked at by BAR.

CHAIR WEISSER: I may be treading in dangerous waters here, but is there consideration being given to utilizing any sort of external advisory group in the formulation of your program prior to it being locked in concrete?

MR. LAFFERTY: There's many outreach efforts internal and external that are being considered, and how that shapes in the coming weeks and the coming months, that's what has to be decided.

CHAIR WEISSER: I would urge the departments to call upon, as best they can, expertise, particularly in the outreach side that may not exist in the agencies. I think it's an opportunity to try to get some input before something comes out in print and you feel like you have to defend it to get ideas.

MR. LAFFERTY: Thank you. Yes.

CHAIR WEISSER: I'm also interested in information associated with the reinstituted Accelerated Vehicle Retirement Program that you guys have kicked off at 500 bucks a car. Is there any information you could provide us on that right now?

MR. LAFFERTY: As many of you, BAR's Vehicle Retirement Program re-started on September 1st of this year, and we are offering \$500. Program participation is slow but it's not nonexistent. We are retiring vehicles. There is a budget of \$4-

1/2 million, which isn't a lot. If we went through the – you know, basically, \$4-1/2 million will get you 8,000 vehicles, so we're commensurate with the budget we have.

CHAIR WEISSER: You mean you're actually getting people to volunteer accelerated retirement –

MR. LAFFERTY: Oh, yeah.

CHAIR WEISSER: – at a pace that would use this \$4-1/2 million up?

MR. LAFFERTY: I think that's too early to tell. For the last two months, the number of vehicles that have been applying has gone up week after week, so it's really a little bit too premature to say where that is going, but we do have consumers that are applying and are being approved and are being retired as we speak.

CHAIR WEISSER: Um-hmm. Is there any consideration being given of adopting a program that would provide a different level of financial incentive depending upon community?

MR. LAFFERTY: I think that that's part of the strategy that we're preparing right now for the preparation of the months and years to come. We're looking at a variety of different ways to operate the program, and so that's under consideration now.

CHAIR WEISSER: Is there any consideration being given to other approaches that are normal in the business community, commercial community, for spurring consumer interest? For

instance, you don't see GM offering \$500 off all year. They offer \$500 up until October 31st, act fast or miss out. Are you going to be exploring different marketing opportunities in order to improve the effectiveness of this outreach?

MR. LAFFERTY: We're looking at a number of outreach efforts right now.

CHAIR WEISSER: And lastly, when will you be in a position to discuss with this committee what your plan is prior to it going into effect?

MR. LAFFERTY: Yeah, I would imagine in the next couple of months we'll be finalizing the document. I don't have a specific date, but actively, we're actively preparing it right now. Once it's reviewed by those, the Administration, then they'll direct me as to which ones they want me to work on and others. So a number of people are looking at this. It is an important issue.

CHAIR WEISSER: Should we be asking you for a monthly status report on what's going on in these efforts?

MR. LAFFERTY: No. No. Excuse me. Certainly I can provide you with some updates and I'd be free to do so.

CHAIR WEISSER: Well, I for one, Rocky, would like to see this on the agenda as the program ripens, so if we could put this on the agenda.

MR. LAFFERTY: My sense of humor, it just doesn't come out.

CHAIR WEISSER: And you may come up and say, gee, I have nothing new to report, and then I'll say, okay, now really what are you doing.

MR. LAFFERTY: Yeah.

CHAIR WEISSER: But we'll work our way through that.

MR. LAFFERTY: I must say, though, that we are active in trying to do very similar things of your interests.

CHAIR WEISSER: Well, you guys have been great. I don't want you to interpret anything that I've said as being critical. I want to, if anything, give you a boost, because it is my belief that the Consumer Assistance Program and particularly monies available for accelerated vehicle retirement and consumer assistance are going to be a focal point of legislation for next year, to add monies that will make your eyes spin, so we best do this well and use this as an opportunity for testing ideas.

MR. LAFFERTY: Right.

CHAIR WEISSER: And experimentation.

MR. LAFFERTY: The Consumer Assistance Program has a very simple and clear theme. We're trying to clean the air and we're trying to help people, and that cuts through a lot when you're doing things.

CHAIR WEISSER: Cool. John.

MEMBER HISSERICH: Yes. In the radio and television and so on in southern California and I imagine throughout the state, there's these programs where, you know, take your car and get all the tax advantages and so on, aggressively. Now, does this tie into that? Do those companies come and get the \$500 for each car, or how does that work?

MR. LAFFERTY: Well, I don't want to speak for these companies and I don't want to act as an expert, but anecdotally I can tell you that there are these programs that are oftentimes non-profit organizations, they're often run by groups of people and they collect cars and those cars that they can refurbish and put back out on the marketplace through auctions, they do so. Those vehicles that are not road worth of sorts, they then go for scrap metal, and the profits are then divvied up between various groups, and that's how essentially they operate.

MEMBER HISSERICH: But they don't come to you looking for the 500 bucks saying we're taking this car off the road.

MR. LAFFERTY: No. The purpose of an accelerated vehicle retirement program is not the same as those groups. They have similarities but they also have differences. We're trying to retire or take off the roads those vehicles that we would perceive to continue to stay on the roads if we do nothing, and

so they would continue to be high emitter vehicles, gross polluters if you will. Many of the vehicles that –

MR. GOLDSTENE: I just want to clarify. I think the answer to your question – James Goldstene from BAR. In order to retire a vehicle through our program, you have to be the registered owner and bring it to us.

MEMBER HISSERICH: Okay. All right.

MR. GOLDSTENE: You can't be a charity organization.

MEMBER HISSERICH: Yeah. And I think those charity organizations actually work through commercial outfits that are tied into them, but I just wondered because there's so much of that now that somebody was making money off the deal and, you know, some of it goes to charity, and I just wondered if this had any relationship.

MR. LAFFERTY: Well, the Consumer Assistance Program requires the vehicle owner to be the registered owner.

MEMBER HISSERICH: Okay. Thank you.

CHAIR WEISSER: Let me ask you one question in follow-up onto that, Michael. How much of the emission reductions that you're getting through vehicle retirement are turning into credits for corporations and businesses to avoid air quality regulation?

MR. LAFFERTY: Zero.

CHAIR WEISSER: Thank you. Jude?

MEMBER LAMARE: Nothing.

CHAIR WEISSER: Okay. Bruce?

MEMBER HOTCHKISS: Given that the federal, I guess the IRS regulations on the donated vehicles is due to change January 1st, are you expecting an increase in the accelerated retirement vehicles?

For those that don't know, I guess the write-off will drastically go down. No longer will you be able to just say, yeah, my car was worth \$5,000 and I donated it; it will be the actual value of the vehicle, I gather, that you can write off on your taxes, so the expectation is not as many vehicles will be donated to the charities, which may lead a lot more people to decide that the \$500 is a good deal.

MR. LAFFERTY: Remains to be seen.

MEMBER HOTCHKISS: Okay.

CHAIR WEISSER: Any further questions from the committee? Okay, we're going to have some quick comments. Remember, folks, you're in between this committee and lunch, and your own lunch. We'll start with Chris and work forward.

MR. ERVINE: Chris Ervine, Coalition of State Test-and-repair Stations. Did I understand that you said that vehicles '75 and newer are exempt from change of ownership or when they initially bring the vehicle into the state? Wouldn't be a change of ownership, it would be initial registration in the state.

MR. LAFFERTY: I may have misspoke, I don't know, but vehicles for 1976 through 1999 will be part of the Smog Check Program. The first six years of a new vehicle will be exempt from Smog Check.

CHAIR WEISSER: Similar to the state law as it applies to California registered cars; is that correct?

MR. LAFFERTY: They're brand new vehicles, the first six years will be exempt.

MR. ERVINE: Okay. But all the rest of them initially coming into the state will still have to pass Smog Check.

MR. LAFFERTY: Oh, excuse me. The first six years of a vehicle coming into the State of California will require a Smog Check.

MR. ERVINE: Okay. So that would be like 1990 and newer right now.

MR. LAFFERTY: Any vehicle coming into the State of California for initial registration is subject to California Smog Check.

MR. ERVINE: All right. Concerning the CAP program and crushing vehicles. Do these vehicles still on the cash-for-cars vehicles, do they still need to be currently licensed for a certain period of time and they can't have any missing, modified or disconnected emission equipment on them?

MR. LAFFERTY: Yes, that's true.

MR. ERVINE: And on the CAP program, it's been my recommendation to BAR and this committee for a number of years that before taxpayer dollars are spent on repairing a vehicle to make it so that you can drive it on the road, that there should be some kind of a safety inspection done on that vehicle to verify that it is indeed road worthy other than being able to drive it. We have seen a CAP station and we've seen vehicles without brakes and other very gross malfunctions on them that should not be repaired and should be crushed, and yet CAP is repairing these vehicles and putting them on the road to drive down the road in an unsafe condition and perhaps you see them in your rearview mirror.

CHAIR WEISSER: Are you proposing, Chris, a broad safety inspection program for the State of California?

MR. ERVINE: I would like to see that on anything over eight or ten years old.

CHAIR WEISSER: I would like to see it on anything over 30 days old. I'm talking now, and it's not a committee issue, but I can tell you that, representing my organization, the California Council for Environmental and Economic Balance, I'd be interested in exploring a safety inspection program integrated with the Smog Check Program for the State of California. That's just as an aside.

John?

MEMBER HISSERICH: Just very quickly just to be clear. If a person in the State of New York, for example, buys a 2004/2005 vehicle, registers it there and drives it for a month or two and relocates to California, when they arrive and seek registration in California, the car will be inspected once and then doesn't need to be inspected again for the following five years or so until it meets the six-year threshold; is that correct, and then it would go into that.

But if they have – was that not correct?

MR. LAFFERTY: Partially. There is in California a provision called a Certificate of Non-compliance. A vehicle that is a federal vehicle that comes in the State of California for the first time cannot be registered unless it has more than 7500 miles, so after that waiting period it would come into the State of California and initial registration would require a Certificate of Compliance.

MEMBER HISSERICH: And then it would not be required again until the six-year time line had passed.

MR. LAFFERTY: Presumably.

MEMBER HISSERICH: But if somebody had a car that was older than six years came into the State of California, they'd have an initial inspection and then they would go into the biennial inspection program on a cycle coincident with that first

test. In other words, after that first arrival test then two years after that, and so on and sequentially.

MR. LAFFERTY: Right, right.

MEMBER HISSERICH: Okay.

CHAIR WEISSER: That raises an interesting question. Considering that the California standard for cars is different than the national standard, though there are some states that have matched the California standard particularly in the more progressive east coast, what about cars that are designed and built for states that so that their emission characteristics are substantially worse than that would be required to be sold on the California market, are they given a different standard to pass or do they have to pass the California standard, which is adjusted, as I understand, year by year to account for degradation and of course engine model and the like?

MR. LAFFERTY: Yeah, I'm not the engineering - I don't work in engineering, but vehicles that come into the state are tested and they're based upon the year and model of the vehicle and engine type, so all of that has been considered into the standards for that applicable vehicle.

CHAIR WEISSER: So my, you know, Buick Regal that I bought in Fayetteville is going to have to pass the same emission standard as my Buick Regal that I bought in Emeryville, even though the engines in fact may be different.

MR. CACKETTE: That's right. Except the first part of your -- this is Tom Cackette. The first part of your statement had a limitation to it that you as a California citizen cannot go buy a new vehicle in Alabama or wherever you were referring to and bring it into California.

The correction on the statement before is that if you're a New York person, happen to have a three-month-old car and move here, you can bring that car with you, but as a California resident you can't go buy an out-of-state car until it has over 7500 miles on it.

MEMBER HISSERICH: You can bring it with you, but you still have to meet the California standard.

MR. CACKETTE: When you come in you have to meet the California standards. The reason for that is the Smog Check cut point is so much more lenient than the emission standard that the car has to meet, that the distinction between the California certified car and the federal certified car which might be 50 percent or even 100 percent on certain pollutants, the Smog Check standard is more like, you know, two or three times higher, it's only looking for the ones that are basically broken.

So we can say that whether it's a federal car or whether it's a California car, it can be brought down to this one single standard, which will mean that it's running okay, and

that's just a much more lenient standard than what the manufacturers have to meet with they design their cars.

CHAIR WEISSER: Thanks, Tom. Bruce?

MEMBER HOTCHKISS: But one of the identifiers in the smog inspection is the certification type. You have California, federal where they allow an unknown and referee. Some of it has to do with equipment. Now, you know, in the modern car the equipment difference, there probably really isn't any, but so that a federal car is tested to the standards it was built.

MR. CACKETTE: Yeah. Right.

MEMBER HOTCHKISS: At least to the equipment.

MR. CACKETTE: That's a visual inspection.

MEMBER HOTCHKISS: Right. Because of the cut points being higher, it doesn't maybe fall in on it, but the vehicle - all vehicles are tested to the standards to which they were initially manufactured.

MR. CACKETTE: Correct, but I think for the exhaust emissions there's not a distinction between where they are.

MEMBER HOTCHKISS: Right. Thank you.

MR. CACKETTE: There is because one might have an air pump and the other one might not, for example. That's the reason for the California versus fed certification.

CHAIR WEISSER: Thanks very much, Tom. Who's hungry? Okay. We're going to take our lunch break now.

Charlie, did you have something on target? Yes. Okay, Charlie, please join us. Well, step up to the podium.

MR. PETERS: Mr. Chairman and committee, my name is Charlie Peters, Clean Air Performance Professionals. If you want to stop this meeting at this point and have lunch and let me continue after lunch, that satisfies me just fine, or if you wish for me to continue I'd be happy to do that.

CHAIR WEISSER: Please continue, Charlie.

MR. PETERS: Mr. Cackette brought up – I'm confused, so I need your assistance. Mr. Cackette brought up a situation with bringing in – a California resident being out of state, the situation that you brought up at least used to be that if you were in Podunk, Florida, and your car quit and broke in half and you had no choice but to buy a non-California car and you had a legitimate reason, you could document that and bring that car in as a non-California car and register it here without any mileage or any other criteria other than signing under penalty of perjury that in fact you had a special problem and be able to document that. So just as a comment to – which may have changed, but just as a point.

I find it very interesting with the State of California, which is not going to raise any taxes, having a tax of \$8 for four years on these cars that are being exempted for change of ownership. \$12 tax for six years, that's a tax. Any

way you cut it, it's a tax. Never got any review, any public input, put through as a budget item, and we're going to do this in an open process and have an open process for the State of California. I'm sorry. The committee should not be accepting of that.

We've got a bill -- a question to Rocky. We had a bill right at the very end of session that had \$1,000 for scrappage that was supposed to have included Smog Check. I need some clarification on that.

The question was asked whether or not the cars that are scrapped created any relief for the stationary sources. I guess I have a wrong impression. I thought that was applied to the SIP, and the SIP requires relief from the amount of reductions that other sources are required to meet. That sounds to me like in fact there is a significant benefit for other polluters, and I have been saying that forever, if we're more responsible on the cars we'll provide a whole bunch more relief for other sources and be able to enhance the --

So, the last thing. You, Mr. Chairman, just said, and I must have misunderstood you, that we're going to have stuff for next year that is just going to spin the dials and, by golly, we're going to clean up the air in California and it was assumed by me that you're talking about huge scrappage money for the State of California and it's just going to blow all of our doors

off. I haven't heard any discussion of that. I find it very interesting that we have a plan that we're not talking about.

CHAIR WEISSER: Thank you. I'll clarify that, Charlie. A lot of the people who worked on increasing funding for the Moyer Program have been interested in increasing money for consumer assistance, rep assistance and vehicle scrappage, and I'm hopeful that those people will be getting together and trying to see if a consensus can emerge associated with improving the funding for those programs.

With that, we will take a lunch break. I have five after one. How about we reconvene at a quarter to two, does that work for people? Okay. We have quite a bit to do, so we'll adjourn right now for lunch.

(Noon Recess)

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AFTERNOON SESSION

CHAIR WEISSER: Okay. The afternoon session is now come to order, and Mr. Carlisle, will you march us through the next item?

MR. CARLISLE: Okay. Next item is item eight, the consumer information survey, and of all the issues, this has probably taken more time and created more frustration than should be allowed in a person's lifetime.

The issue is how do consumers learn about BAR smog check problems? Anecdotally, you know, it's from technicians, it's from shop owners and in part from BAR, but given 23 million vehicles out there and a limited budget, they don't all reach the consumer.

And so this has been kicked can around, the idea was to come up with a consumer information survey. Now what we wanted to do was select 18,000 potential participants. Those 18,000 will be run through a tele-matching process where we'd get telephone numbers, and then we would select or survey 550 of those consumers in geographical areas that represented the consuming public to glean the information of how exactly these people got the information they needed when they failed a test.

Also, we're trying to get information with regard to did they qualify for the Consumer Assistance Program, and that was a very tough issue because there's some Government Code as

far as the Privacy Act that restricts government agencies from collecting some demographics, but we did work through most of that and there's a questionnaire in your packet that shows you the final questionnaire that we agreed to with legal. Judith Lamare was okay with it, Tyrone was okay with it, so I think we're on your way.

The last missing piece of this, however, is what I spoke about before, and that's the virtual private network. The virtual private network is essentially a tunnel, if you will, between IMRC and DMV where we can transmit back and forth sensitive data. DMV is currently setting that up for me. Hopefully by the end of this week I will be testing records sets to see if the record set that I send will retrieve the information that we're looking for, and then once I get that information, can I import that information into a database. So, that should happen at the end of this week. I won't really know until it actually does occur. I'm waiting for an e-mail from the DMV at this point in time.

CHAIR WEISSER: Jude, do you have anything you would like to add to that?

MEMBER LAMARE: Thank you, Mr. Chairman. Jude Lamare, member of the Consumer Information Committee.

The survey is core piece of our work in that we wanted to consult with consumers directly about their experience and we

specifically targeted failed vehicles in enhanced areas. So, a lot depends upon getting this completed for our committee to do a report. However, we have looked at some other issues.

One of the issues that we've looked at is the availability of consumer information in other languages on the website and otherwise, and I'm informed by the Bureau that they're in the process of translating into Spanish a number of documents that will be hosted on the web.

The Bureau also has the capability for people who phone in to be able to speak in their native language about their issues, whether a complaint or a request for information, and have an interpreter available. So that's good news.

Another area of Consumer information is, as you know, the CAP program is only available through Gold Shield stations, so one of the questions that arose for us is whether those Gold Shield stations are equally available to all consumers who might want to make use of the CAP program. And we are still awaiting an analysis from the Bureau of the zip code analysis of Gold Shield stations, and what we have asked for a level of detail that would allow an analysis of the availability in communities of different socioeconomic and ethnic characteristics or by Assembly district or by some kind of geographic analysis that would tell us more about the availability of Gold Shield to communities of different income levels.

We did look at availability of Gold Shield proportionately in the counties of Sacramento, and I think we had a discussion of this at an earlier meeting. There were some discrepancies there, the most obvious being the County of Los Angeles, which after all, is the largest county in the state. In fact, so much larger probably as to be of a different nature than other counties in the state.

Nevertheless, I was very deeply troubled that Gold Shield stations were not available in the same density or they were not as accessible to the public in Los Angeles County as in other counties, so I think this bears more investigation, concern about how consumers receive information and the extent to which consumers have available to them the information that they need to effectively use this program.

CHAIR WEISSER: Could you or Rocky describe to us the timing of the survey and the time necessary to perform an analysis and associated time line so we get a sense of when the information would be available for us to hear? And -

MEMBER LAMARE: I have a question can about that. I'm sure, you know, Rocky needs to tell us what the time line is based on his best on his estimate right now, but my question is whether a draft report can be circulated to the members prior to a meeting rather than at the meeting. Because, if so, I think that's really critical, that we need to get - when would do have

a draft report that we get it to members and not simply wait for another committee meeting.

CHAIR WEISSER: I think as long as it comes from Rocky, we can do that.

MR. CARLISLE: Yeah, I think so. What I will do is I will check with legal on that issue.

With regard to the timeframe, it's my understanding that once I get the data to the contractor, they will need about ten days to complete the survey. It's relatively quick. What's hung us up is all this other nonsense with, you know, getting the questionnaire approved and getting the data and everything else, so once that's resolved then it should be a fairly quick process. I really can't speak for the data analysis, I would defer to Jude on that.

MEMBER LAMARE: I would just add if anyone on the committee has questions that they want answered as they look at the questionnaire, that they would e-mail to me the questions that they have.

CHAIR WEISSER: We can still make changes?

MEMBER LAMARE: Not in the questionnaire, but if you have questions about what you will learn from the data, make sure that you get answers to your questions. I'm not being clear here. Okay.

The interviews will produce a database is 550 interviews and a lot of data points, and it was my intent to quickly go through that and evaluate the frequency distributions and do the basic crosstabs and write up a preliminary report about what the findings are.

As you read the questionnaire, if there are questions there that you want to make sure are covered, there are pieces of data that you want to know specifically about, you want to make sure that they're covered in the preliminary report, please let me know what those issues are so that I can make sure they are covered.

CHAIR WEISSER: So Rocky, excuse me but I'm going to be pestering. When do you believe, what's your best estimate that the virtual network, all that stuff is going to be done? When are we going to see the surveys start, to the best of your knowledge?

MR. CARLISLE: To the best of my knowledge, I should be able to retrieve the data by Monday. This next Monday.

CHAIR WEISSER: And then it takes you a period of time —

MR. CARLISLE: That will take only a few hours. Once I get the data —

CHAIR WEISSER: And then you turn it over. So sometime, let's say by Halloween, the survey could actually be conducted?

MR. CARLISLE: Absolutely. Very possible.

CHAIR WEISSER: And the data returned then in semi-raw form to us by the 15th?

MR. CARLISLE: Right.

CHAIR WEISSER: I'm just trying to go through this. Jude's going to need a few weeks, I'm going to assume, to do analyses.

MR. CARLISLE: Correct.

CHAIR WEISSER: Couple of weeks. So probably the first time we'll see a draft will be Thanksgiving-ish?

MEMBER LAMARE: Yeah.

MR. CARLISLE: Yeah. The November meeting.

CHAIR WEISSER: Well, maybe. Okay. Very good.

MR. CARLISLE: Okay.

CHAIR WEISSER: Questions? Mr. Pearman?

MEMBER PEARMAN: I guess a few. First, so what exactly is that subcommittee's task. They do the survey and then so in our draft report what's the — first, this does not respond to an ARB item, it's really our item, so what are we looking to put in our report that we need to see her report in draft and give input on? Can you clarify that, first of all?

CHAIR WEISSER: Jude?

MEMBER LAMARE: Well, simply put, we are trying to evaluate the level of consumer information about the program.

And, no, I don't have a draft recommendation report at this point. We need to evaluate the data as it comes back, and considering the limitations of the size of the survey, so I would expect to be making some suggestions to you about recommendations, which most likely would have to do with the amount of outreach and the amount of information provided to consumers.

CHAIR WEISSER: But the fundamental purpose of the report, is it not, Jude, is to really just try to get some baseline information on the consumers' perspectives and their interactions with the Smog Check Program and find out how aware they are of the Consumer Assistance Program and things like that, because we —

MEMBER LAMARE: I think, too, Vic, we sit here and we hear a lot, we get a lot of input, but we do not hear from the consumers, and so this is an independent source of information about the consumer's experience with the Smog Check Program, and particularly those who have failed and have to pursue repairs and go through a certification process.

MR. CARLISLE: I think there's, too, some environmental justice problems issues that there some concerns about.

CHAIR WEISSER: Economic justice, I think.

MR. CARLISLE: Yes. So those are the concerns the subcommittee did express.

MEMBER PEARMAN: I was trying to get at the timing, and since it's not responsive to the ARB report where they had to rush this, I guess it's possible that the results might impact how we do some other recommendations since the effectiveness of the consumer of CAP program and things like that and certainly assumptions are being made, I guess might tie in if we have certain types of results, but otherwise I wasn't sure we had to necessarily rush to come up with recommendations, is what I was looking at.

CHAIR WEISSER: Robert, I couldn't agree more. And in fact, I guess that's the space I wanted to leave for you, Jude, is that if it turns out that for whatever reason the survey gets delayed or you need more time for analyses, or you need to do inter-question correlation analyses and you need some resources or time to do that, I don't want you feeling pinched nor do I want the submission of another interim report from this committee to be impinged upon. So, I'm not averse to the notion of – remember, we already submitted an interim report, and that was in our letter associated with the 30-year exemption and the –

MR. CARLISLE: Yeah.

CHAIR WEISSER: You know, we could do another interim report and leave time. I want to leave that open because I think for the legislature, this survey will be very important. They don't have good information on consumers' attitudes and understanding and I think this will be of interest.

MEMBER PEARMAN: And who will be doing the phone calling?

MR. CARLISLE: That's going to be the Form Ten Group, the contractor that we've hired.

CHAIR WEISSER: Oh, you're going to get your list of people you need to call next week, Bob.

MR. CARLISLE: We actually had to extend the contract as well because it already expired in reality, but we do have an extension for that contract in place.

MEMBER PEARMAN: Okay. And explain to me why the DMV virtual network is so important. I mean, are you going to try and tie these into peoples' registration and smog check records? Are you going to input their names? Because I see you do ask their name, but I thought that was just so you could know who to talk to, but you're going to input their name and registration and license number into the system so somehow correlate that information with actual driving or Smog Check experience, or what?

MR. CARLISLE: The DMV is the source of the information to begin with. We're going to have vehicle identification numbers. We have vehicles. We don't have any vehicle owners. So would need to take that vehicle identification and match it with the DMV data so we can get the registration information. But that doesn't give us telephone numbers, so then we have to take the next step, which will actually be conducted by the contractor and they will do did tele-match to get the telephone numbers.

That's one of the reasons, if you notice, we're starting out with so much potential participants, is because we're going to loose about 40 percent in the tele-match process.

MEMBER PEARMAN: My question was, once you get the server results, so you're saying you need to tie into their network to actually find the numbers and make the calls, it's not that you're going to take the survey information and run that back into DMV.

MR. CARLISLE: Exactly. Yeah. DMV is on the front end.

MEMBER PEARMAN: Okay, okay. And you said you're going to have so many, I know you said you expected 550, you said so many meaning you're going send out 550 and only 300 will be returning or you'll start with 1,000 to get to 550, I wasn't clear on that.

MR. CARLISLE: No, we're going to start out with 18,000, and that 18,000 we'll probably get somewhere around 12,000 telephone numbers and registrants. From that, we're going to complete 550 surveys. Now they're probably going to have to make three times that many telephone calls, something along those lines, to complete the 550. But we want to make sure first of all that we get the 550 but that they're also geographically distributed to better represent the population of the state.

MEMBER PEARMAN: All right. I guess my last question was, the survey preparers and our contractor are comfortable that you will get a representative sample out of this, because I would never agree to a 25-question interview unless you offered me something, so are you sure that you feel confident that you're going to get a representative sample when it's all through?

MR. CARLISLE: That's what the DCA attorney said too, is this a legal issue? No, (inaudible).

MEMBER PEARMAN: Well, I wouldn't agree to one just because I don't want to take the time, so I'm just wondering if that might somehow self-select the wrong kind of group, is what I'm asking.

MR. CARLISLE: They said it's about a ten-minute survey, and they feel they've done those lengths of surveys and they feel they will get enough participants.

CHAIR WEISSER: Jeffrey?

MEMBER WILLIAMS: I think you haven't explained where you're starting from in this. I know, because I was involved, which is that you're selecting people who have failed the smog check test to begin with.

MR. CARLISLE: Correct.

MEMBER WILLIAMS: They may be more likely to talk among other things, and that's why they're starting with the DMV. And I happen to know that part.

MR. CARLISLE: Right. Jeffrey did provide the initial data and that's where I get the original 18,000.

CHAIR WEISSER: John?

MEMBER HISSERICH: Just a quick question. What constitutes a full survey? If you get down to question 1-X or 1-D or something like that, and then it goes to the 'no' column, you know, the person isn't there. Is that -

MR. CARLISLE: No, that's not a complete survey.

MEMBER HISSERICH: It's got to be that they've got to do the whole 25 questions?

MR. CARLISLE: Yes.

MEMBER HISSERICH: So you figure 550 will do that out of the total original bunch of 18,000?

MR. CARLISLE: Correct.

MEMBER HISSERICH: Okay. I just wanted to make sure.

CHAIR WEISSER: Thank you. Any further questions from the committee? Any comments from the audience? Anyone on the telephone lines have anything to say? Anyone on the Internet have anything to say?

Good. Hearing nothing, let's move on to the next item. Mr. Carlisle.

MR. CARLISLE: Okay. Talking about item nine, clean screening fifth and sixth model year vehicles. Originally this was a clean screen process that was suggested by the ARB/BAR report. The concern was if you eliminate the fifth and sixth year model year vehicles from the biennial smog check inspection you lose four tons per day of hydrocarbon and NOX.

But on the flip side, these emissions reductions are extremely expensive. As an example, in the report that identified removing or exempting, if you will, about 20,000 vehicles a month and then test the remainder. If that were the case, you'd be paying about \$70,000 a ton. The next cut, as I recall, was 32 vehicles exempted per month, and that was still over \$57,000 per ton.

But in the meantime, SB1107, which is essentially the budget bill, it totally exempted the fifth and sixth year model vehicles from the biennial inspection, so in part, that took it out of our ballpark as far as suggesting they clean screen these. And it looks like we have a problem with fine this screen here.

So what the committee is looking at is, since you have a majority of the vehicles that it's going to be very expensive to test, the thought was instead of clean screening over 50 percent to get this down to a reasonable cost per ton, it makes more sense to use some form of technology, whether it be remote sensing, whether it be prior smog-check history ,for example, or whether it be some kind of high emitter profile model, to bring these vehicles back in – somebody is playing with the screen. Oh, okay, thank you.

And so that's probably going to be the recommendation at this point for the subcommittee, to use some form of technology to bring in the vehicles that are likely to fail the test.

CHAIR WEISSER: If I might add, I think this is a pretty important and somewhat tricky issue for this committee. But I think the recommendations, the analysis which points to the recommendations, tries to deal with what we believe is problem caused by the recent changes in the law. That we do believe that there are important emission reductions to be garnered from the fifth and sixth year fleet.

The problem is that, as Rocky put forward, if you through traditional methods try to identify and then repair those vehicles needing repair, it turns out to be very expensive in a dollar-per-ton, so that we need to come up with a way to work

smarter on the problem, and what we're proposing here is a combination of using the databases that we have and this new technology being run through the demonstration program to try to reduce the cost of identifying those cars most likely to fail.

Okay. I guess what I'd like to do is ask the committee for their reactions before we go to the public on this and questions they might have, and then ask the public if they have some comments they'd like to make.

Robert?

MEMBER PEARMAN: I'm not understanding the law, though. I thought that at one point the law basically said fifth and sixth year were exempted but ARB could on its own include them if it had certain findings. Then I thought the law changed so that it completely exempted them with no administrative carve-out. So am I right? And if you find a way to clean screen, will that then require a legislative change to allow you to bring those back to do the clean screen?

CHAIR WEISSER: Yes. This would require a statutory change to modify the law and bring it to effect this year or will go into effect in 2005 that was passed and signed into law this year.

MR. CARLISLE: I should mention too that with regard to fifth and sixth model years, there is probably three different pieces of legislation that impact this, and so I'm still in the

process of looking at that and talking to the legislative counsel at DCA to see exactly what some of it does mean, because it may be that they have the authority if they adopt a regulation.

MEMBER PEARMAN: That's partly why I asked you (inaudible).

MR. CARLISLE: Right.

CHAIR WEISSER: I didn't realize that.

MR. CARLISLE: Yeah, I believe there was some latitude on the part of the agencies, but there are several bills that impact this fifth and sixth year issue and I haven't finished all the analysis of that.

CHAIR WEISSER: Well, that would be crucial to understand.

MR. CARLISLE: Yes, absolutely.

CHAIR WEISSER: Because we don't need a statutory change it would certainly facilitate the agencies acting in a rapid fashion to deal with this issue.

Other comments from committee members? Okay. Do we have any comments from members of the audience? Start from the back and work forward. Chris.

MR. ERVINE: Chris Ervine, Coalition of State Test and Repair Stations. I have a real problem with clean screening. That means we never have to open a hood. We never test the evaporative emission control system. Let's just change the whole

smog program to where it's just a tailpipe test and we'll reduce the cost of testing vehicles, but we can't do that because a large percentage of our hydrocarbons are coming from evap testing, and I think that if we let clean screening get a foothold here that we have a possibility of losing emissions in other areas.

CHAIR WEISSER: Thank you. It is my understanding this recommendation proposes not so much clean screening but actually dirty screening, it's to identify the high polluters. Yet, Chris, I recognize that the technology does little to deal with emission losses through evaporation, and your point is well taken there. I guess it's a question of do you want to get some or nothing, and I hope we don't let the perfect be the enemy of good.

MR. CARLISLE: Well, I think the issue is these vehicles are out by law right now, so we'd like to bring the ones back in that are going to fail.

CHAIR WEISSER: Or more likely to fail.

MR. CARLISLE: Or more likely to fail.

CHAIR WEISSER: Okay. Len and then Charlie.

MR. TRIMLETT: I'm confused. I thought this program was about clean air. SB 1197 says you're going to exempt those vehicles. Right up there you said four tons per day, you're going to throw the baby out with the bath water. Now you want to

bring these cars back in, but I've written several letters to BAR regarding defects in their specs on remote sensing, but they won't even answer the questions that I've raised. You want to bring these vehicles back in, but you don't really – you haven't proved to me that the system is going to work.

Do I understand right now that the intent here is if a vehicle fails on remote sensing that you're going to bring it back into the program for a smog check test; do I understand that right?

CHAIR WEISSER: Yes.

MR. TRIMLETT: Okay. So you're essentially going right around SB 1107, right?

CHAIR WEISSER: No. We couldn't go around 1107. What we would be recommending, what the subcommittee would be recommending to the full IMRC is consideration of making a recommendation that the statute be revised to allow a program using one or a combination of the three things that are identified in these recommendations so bring cars back into the program that have now been exempted.

MR. TRIMLETT: In other words, you're going around 1107 by changing it.

CHAIR WEISSER: No, we're not going around it, we're addressing it. I don't – I will not accept the characterization of addressing an issue as going around it, Len. I don't like the

word 'going around it.' It makes it sound like we're trying to avoid it. We're not. We're trying to deal with it directly.

MR. TRIMLETT: Well, I still can't come to any other conclusion that if this is about clean air, number one, you wouldn't be throwing away four tons per day with the fifth and sixth year cars.

And then now you're going to bring back in the vehicles.

CHAIR WEISSER: That's correct.

MR. TRIMLETT: That's something I do agree with. Thank you.

CHAIR WEISSER: Mr. Peters?

MR. PETERS: Thank you, Mr. Chairman and committee. My name is Charlie Peters, Clean Air Performance Professionals. We're here representing the interest of motorists.

I believe, Mr. Chairman, you're acting like you don't understand the actions and results of the previous committee with Lynn Scarlet, so we'll assume for the moment that that's correct.

I believe, sir, if you get letter sent in by Joel Schwartz at the direction of Lynn Scarlet and the committee to Senator Kopp, who sent it to legislative counsel, specifically addressing the issue of '66 to '73 cars, and what that said, I think it said, as I read it and understood it, that any car in the State of California on the road could be made subject to

remote sensing at the will of the state. So I think your correction by this gentleman that it doesn't require legislation I think is absolutely correct.

I find it just fascinating that the Air Resources Board, the committee, et cetera, agreed that to keeping those cars in to start with was the appropriate action. Oh, now we took it out. Oh, now we got to find the dirtiest cars and it's going to cost a lot less money. But at the same token, maybe those cars that were taken out in fact made a huge impact on fleet emissions over time.

By setting appropriate standards and keeping them from becoming broken to start with, which effects the motorists, it effects the automotive repair industry in general, it effects the care and handling of that car during its life by creating an ethical system that prevents the car from becoming broken to start with, so if we have an entire fleet and never gets broken, the impact that we could have would be huge, so if in fact you looked at the ancillary effects of the program in the years that have been exempted, you'll probably find that the cost would be ten times, a hundred times less than what you're proposing, that in fact the reality is that those cars should be in and be kept from becoming broken to start with and that that would be an appropriate policy.

No matter what, the situation of looking at these as it's going down the road and determining whether or not it's broken with this little, oh gee, this car in this particular mode and time was broken, and not ensuring that what's broken gets fixed and that you create appropriate ethics and you start improving how the public is treated, you start changing the complete lack of quality and support for consistency in the marketplace and do something effective about making this program work, it looks to me like we're just going through a scrappage program. We're going to do what you said, Mr. Chairman, we're going to just put cubic money from the public, make a little carbon tax, and get rid of all these cars so we can put in our hydrogen highway.

CHAIR WEISSER: Thank you for your input.

Questions, comments from people online or on the conference call? Any further comments or thoughts from the committee members. Thank you very much

Rocky, marching on.

MR. CARLISLE: Okay. Item ten was annual inspections for older model year vehicles.

The report indicated that 15-year-old model year vehicles have a high fail rate. By model year it ranges any from 30 to 40 percent. Annual inspection of these vehicles could reduce emissions of hydrocarbon and NOX by about 25-tons per day.

The downside so that, however, is these annual inspections could increase the consumer cost about 173 million. The majority of that is actually inspection costs, as I recall ,it's about 101 million, the balance being repair costs.

So when we looked at the various options, testing the whole fleet is very expensive, but there may be options to testify a portion of that fleet since the repair rate, even if you assume the highest would be 40 percent, maybe you could test 50 percent of that fleet and drastically reduce the overall cost. So what the recommendations are is a statutory change authorizing BAR to implement annual inspections for 15-year and older model year vehicles, but at the same time provide some flexibility in the model year selection, depending on the finance when they start this program.

We always feel that the additional fees for that off-cycle, if you will, event, that those fees go directly into HEPRA. Because that's 8.25 per vehicle, it raises a significant amount of money. And then require BAR to excuse vehicles likely to pass inspection. And again, through some technological type advancement, if you will, whether it be a low-profile, whether it be vehicle smog check history or the again the remote sensing. Just excuse some of the vehicles from the annual test.

CHAIR WEISSER: Mr. Carlisle, I've also noticed that the recommendation would be – is considering directing these vehicles to Gold Shield stations?

MR. CARLISLE: Correct. I forgot to put that on the slide.

CHAIR WEISSER: And it says the repair process could be expedited, which could reduce consumer inconvenience, if they were, and they would have immediate contact with folks able to offer Consumer Assistance Program assistance. I think that's an important component and one that stakeholders need to be aware of and can give us some reactions to.

MR. CARLISLE: Absolutely.

CHAIR WEISSER: Jude?

MEMBER LAMARE: My question has to do with the additional certificate of compliance fees and your recommendation that they be deposited into the High Polluter Repair and Removal account. I wonder if the committee or if you have given any thought to waiving those fees for consumer convenience since an annual smog check is an additional burden on the older vehicles in the fleet and could – we could be making a big investment in cleaner air by calling those in. I'm not sure what the reasoning was on depositing it into the repair and removal account, but it does lead me to think that perhaps these fees could also be waived.

MR. CARLISLE: One of the issues we looked at was increasing the HEPRA so that the majority of these vehicles, a lot of these vehicles are going to be driven by those that can least afford the additional repairs and the additional cost. The 8.25 is not going to break anybody, but the repairs can be significant on some of these vehicles, so the thought was to boost the HEPRA, not only through the additional 8.25, but also with the monies from the \$114 million loan we were previously talking about in the budget bill. Part of that money could go to this as well.

CHAIR WEISSER: If I might, the subcommittee did consider the approach that you're suggesting, Jude, and it's not a bad idea. The thought was that, however, we might want to get all the money, including money from people who are not low income people into HEPRA to make it available for consumer assistance, but I think I'd be open to discussion of even waiving the certainly fee for lower income people if you felt that was vital aspect the viability of this sort of program.

But the bottom line is, we know these vehicles tend to be high emitters. We know repairs are not durable. We need to do something to get these cars back in more often than we're currently getting them. And we always need to ensure that there are adequate funds available for lower income people so these vehicles can be repaired or scrapped.

Jeffrey, did you have a comment?

John?

MEMBER HISSERICH: Well, you're correct, we did discuss waiving the fee. You know, you could envision a variety of scenarios. If they actually get their car repaired the 8.25 could be turned back in to the pot sort of like you go to the emergency room and it turns out you really weren't sick and they give you the money back for having gone in the door, so we could add the 8.25.

With an average repair cost of \$313, which may be underestimated for this group of cars, we're still not going to repair a whole lot of cars with the money that that generates, so it's a little problematic. I think at 313 with just the amount generated from the 18 million just from that additional fee, it was 58,000 vehicles, which sounds like a lot, but relative to the size of that fleet, it isn't that many.

So either way, this is going to be dealt with statutorily. It's going to be a little complicated because it imposes a burden, albeit on a group of cars that I think there is a high likelihood that we reduce a lot of pollutants by addressing it.

Now, if we can do a situation where we identify the cars that are truly in need of repair, and of course the likelihood is those are going to be cars that may even need more

repairs and are less likely to have people who are going to be able to afford the repairs, so you're going to hone it down to a very small group of cars that need a lot of work, and that's going to be costly. It's a dilemma, but I think it's one that's worth looking at because of the potential benefits.

CHAIR WEISSER: Thank you. Jude?

MEMBER LAMARE: Given what happened Jeffrey said to us this morning about the change of ownership, I think this subcommittee should go back and look at the numbers again in terms of overlap between change of ownership and annual inspection and try to make an assessment of what the additional requirement would be for annual, given that some of it is already covered by the change of ownership.

CHAIR WEISSER: The staff of this committee is hereby directed to do so. We really didn't. We mentioned it in our analysis, but we we really didn't try to quantify it, and I think as best we can it's a good idea. I'm still staggered by the figure Jeffrey cited.

MR. CARLISLE: It's double what we talked about in the subcommittee.

MEMBER LAMARE: I mean, obviously I'm assuming that if you got a change of ownership, then you don't go back within the same year for another Smog Check. Your cycle begins again.

CHAIR WEISSER: Your cycle would begin again, I would assume. I mean, that's what makes sense to me.

Okay. I'm interested in hearing some comments from the audience. We'll start with Mr. Ward.

MR. WARD: Thank you, Mr. Chairman. Randall Ward, California Emissions Testing Industries Association. You verbalized a recommendation which obviously heightened my attention that you would recommend that the annual testing be conducted at Gold Shield stations to avoid consumer inconvenience having test-only and then subsequently a Gold Shield station potentially for a repair.

The integrity of this program is based on the separation of the test from the repair for those vehicles that are most likely to fail the test, and that's unavoidable. That's what the federal program was based on, that's what California's program and its approval was based on.

These vehicles, they're dirty. I certainly understand and agree with the troubles facing you on this recommendation given the economically disadvantaged groups that are likely to own these older cars, et cetera, and the inconvenience associated with that, but this program is based on cleaning up the air. It's a health-based program. I'm not saying we need to be sensitive or shouldn't be sensitive to consumer issues and those that own these older vehicles, but separating the test from the

repair is particularly important if you want to ensure that these vehicles are repaired correctly and that the program maintains its integrity. So I would oppose that portion of the recommendation very strongly.

CHAIR WEISSER: Thank you, Mr. Ward, but please don't leave. I think one of the issues that we need to evaluate is if indeed did integrity of this program is based upon the separation of test and repair. We've seen some preliminary information that indicates that the difference in failure rates may be less than that was thought before. I would be interested in understanding more aspects associated with the issues associated with the integrity of the program, and open for you to present that to the committee.

MR. WARD: Certainly. And we would intend on doing that once you have something consolidated that we can respond to in a formal way. And I've made some of the comments with regard to Dr. William's work. And he's had disclaimers and indicated that that work is very preliminary.

And I think it's important to recognize that there was almost a four percent difference between test-only and Gold Shield, but you have no idea how many of those vehicles were subject to pretest or repaired at the Gold Shield prior to receiving that test, so there's a whole lot of questions that are

raised. And as Dr. Williams said, I think at the last meeting, much of his analysis raises more questions than it answers.

But again, I think the program is predicated upon that integrity. I still maintain the statistics that demonstrate that there's that integrity with that separation, and so I would oppose that recommendation and would be glad to respond formally when we see something consolidated.

CHAIR WEISSER: I would urge that you might want to not wait until we come out with a written draft, but address the issue as best you can earlier rather than later, because it gives us something then to chew on.

MR. WARD: Good enough.

CHAIR WEISSER: And not that it's a final word on anything, but it would give us something to chew on.

Mr. Williams?

MEMBER WILLIAMS: This is almost a question for Rocky Carlisle, but something you said, Mr. Ward, has raised confusion in my mind. If there's annual testing as proposed in the ARB-BAR report, I presume that it would be through a HEP style directed testing anyway, and most of these vehicles by virtue of their age and mileage would probably be directed to test-only to begin with, but I'm now realizing (inaudible).

CHAIR WEISSER: In contrast, the discussion that we've had was, where in that 15-year and older vehicle program going to

be going after vehicles that will tend to a much larger proportion of lower socioeconomic community members than the fleet as a whole. And we're trying to identify ways to implement this program that would be most palatable to the folks that are going to now have to come in every year rather than every two years, and one of the issues that we were trying to deal with was, how can you have kind of a one-stop shopping for a lower income person coming in for an extra smog check?

Now clearly on the even years the HEPRA program would probably continue to direct them to the test-only, but on the odd years when they would be asked to come in an additional time compared to a newer car, the thought of the subcommittee was maybe this is something where you want to direct them to test at Gold Shield stations.

So we're tossing that out and we need input on this issue. We recognize its controversy. I'm glad I've got your attention, Randy.

SPEAKER: No, we'll be responsive to your request.

CHAIR WEISSER: I'd love to have response from other industry participants. I wish this was a public that could respond, because I'd like tonight what the public would think about this, but in lieu of the public, I'm going to ask Tyrone.

MEMBER BUCKLEY: I had a question for Mr. Ward before he bounds back to his seat. You spoke of the test being

separated from the repair as a benchmark of the integrity of the program. Is that in terms of consumer protection?

MR. WARD: Consumer protection and also guaranteeing that we achieve emissions reductions. There are others that can spoke to that much better than I from the Air Resources Board. I don't think Mr. Cackette is still here, but the Smog Check Programs prior to the BAR-97 program did not separate the test from the repair, this was a major change.

The reason that major change occurred is that the emission reductions that were banked in the State Implementation Plan for clean air where never achieve, not even close to achieved. So the federal government and USEPA said, okay, time out, and they said we've got a better idea. California didn't quite like the idea, so it as a hybrid program, so to speak, that was approved by USEPA, but it still required for certain vehicles identified as meeting the high emitter profile, that that test be separate from the repair.

So it does two things, Mr. Buckley. It separates the test from the repair for consumer protection and also to guarantee that you're going to achieve the emission reductions that were anticipated in the SIP.

MEMBER BUCKLEY: Thank you for that. I was thinking in terms of the consumer protection that maybe, not that we're trying to encourage folks in the smog check industry to not be

honest about things, but maybe there's less of a concern of consumer protection in situations of sending folks to a Gold Shield and sending CAP people to a Gold Shield station, because there is not so much necessarily going to be out of their pocket. So maybe that's some way that we could balance some of the consumer protection issues at least, you know, concerning those folks who will assisted with the funding.

CHAIR WEISSER: I think that's precisely what was in the minds of the subcommittee when they made put this out for your consideration.

Jeffrey, did you have anything?

Robert?

MEMBER PEARMAN: As a member of the subcommittee, I think the main thing is we wanted to put out some idea that at least expressed really our concerns in the form of recommendations, and we had to do a little bit of guessing and also some political sophistication, because I could be a hundred percent certain that if we make recommendations you're sure that a hundred percent of it won't be adopted as is by the Legislature, so there's going to be some continuing dynamic about what really happens.

For example, if you included every single car over 15 years old, you'd have a tremendous number (inaudible). Who knows if Gold Shield could even handle that? On the other hand, if you

found a screening method so that only 25 percent of the total universe was tested annually, and then you have a different scenario. So I think we just put together these points to express, hopefully, the committee's concerns, and in the real world we kind of have to fine tune how we mix and match some of these various options to pick the optimum legislation.

CHAIR WEISSER: Okay. We're going to take public comment on this item, and I'm going to ask if, Robert, you'd be able to assume the throne while I assume a different throne.

MEMBER PEARMAN: Start all the way in the back. State your name, please, and you'll be on the three-minute clock.

MR. SAITO: Thank you. My name is Dean Saito. I'm with the South Coast Air Quality Management District. My question is directed to Rocky.

Relative to the benefits of annual emissions testing, are these – are the reductions estimated from the off-cycle benefits, basically?

MR. CARLISLE: Correct.

MR. SAITO: And is there any difference in SIP credits between the Gold Shield versus the test-only in terms of SIP credits for these high mileage –

MR. CARLISLE: Not to my knowledge.

MR. SAITO: EMFAC doesn't recognize any difference?

MR. CARLISLE: No, I don't believe so. I have to check with the ARB, but I don't believe they do.

MR. SAITO: Okay. I could say from all the discussions that the Soft Coast staff has had with their governing board, we are very supportive of annual testing, especially of high mileage vehicles and older model years.

I think one of the comments that has been made in the past is the State of Nevada requires annual testing of vehicles, and under the California Clean Air Act there is a requirement of all feasible measures, meaning that within the California statute, basically the State of California has to implement those measures that are demonstrated in other states that have increased stringency, and when the State of Nevada has annual testing program, we would definitely support that increased stringency of the I&M program. Thank you.

MEMBER PEARMAN: Could I ask you a question? Given that position you said (inaudible) has taken, have they ever expressed a way to —

MR. TRIMLETT: I can't hear you.

MEMBER PEARMAN: Have they ever expressed a way to screen those tests or is it just a blanket test, every high mileage, every older vehicle?

MR. SAITO: Well, because such a program has never been demonstrated in California, we haven't given it that level of

thought, but definitely there's been a lot of discussion about how we can strengthen the I&M program in the South Coast, especially when we have such stringent requirements for our stationary sources.

MEMBER PEARMAN: Next speaker? Mr. Ervine, I think.

MR. ERVINE: Chris Ervine, Coalition of State Test and Repair. As Mr. Williams earlier showed earlier, there's not that great a difference between the test-only and the test-and-repair industry, and the test-and-repair industry would welcome the directing of these vehicles on off cycle year to the Gold Shield. I think that based on the statistics that he's shown, that there isn't any appreciable difference between the two.

As far as public comment, I have submitted to this committee before petitions signed by customers from three different test-and-repair shops protesting the directing of their vehicles to test-only stations. I think we collected almost 1500 signatures, and if you take that and multiply it by a thousand test and repair shops in the State of California, you get can a pretty good idea of people that are just really upset with the fact that they have to take their cars someplace else rather than to their mechanic that they've been dealing with for years.

And I think that'll do it. Thank you.

MEMBER PEARMAN: For the record, I think Dr. Williams' slides speak for themselves, and I'm sure the words 'no appreciable difference' are nowhere on them.

CHAIR WEISSER: Very good. Which direction are we going in?

MEMBER PEARMAN: Back to front.

CHAIR WEISSER: Mr. Trimlett.

MR. TRIMLETT: Len Trimlett. You asked for comments from the public. I am the public. I wish to rebut the statement previously made that the integrity of the program relies on separation of test-and-repair from test-only. The fact is, not one single ton, zero tons per day has been removed by test-only. Only a test-and-repair station that repairs a vehicle results in a reduction of air pollution.

I see no useful purpose for test-only, and far less if we're going to have test-only for the high emitter profile. What I've seen, that high emitter profile, is high emitter is equated to high mileage. My vehicles both went to a test-only and both passed in good shape. Where are you getting your data?

CHAIR WEISSER: Thank you. Mr. Peters.

MR. PETERS: Mr. Chairman and committee, my name is Charlie Peters, Clean Air Performance Professionals. I have provided to you today a piece that was written out some time ago, and it starts off starting in 1970 discussing the test-only

policy, how it came about, what the requirements from the fed, who supported it and why, where those people have been participants. This was put together some time ago, so some of those phone numbers are not still current, but at the time it was created that's what was there.

The evidence that I've seen, the data that I've seen has said quite the contrary that in fact test-and-repair is over twice as effective as test-only. At a test-and-repair the job is to fix what's broken. In a test-only situation the job is to pass the test. You get a much more effective program in a test-and-repair than in test-only.

We have had a position that cars should be tested at three, then every other year after that till it's ten years old, and then annually as far as the program goes. So we have been in support of an annual program on the cars over ten years for over ten years. So if you set standards that demand performance, you'll improve the cost and improve the effectiveness of the program and make it to where Dr. Williams can actually have some basis for his analysis that'll give him some real guidelines as to what is really going on and whether what's broken is being fixed and how that's affecting peoples' behavior in the marketplace, and we can do something more effective for the pro in California rather a remote sensing/crushing program to benefit

the hydrogen economy. \$100,000 cars that according to the *New York Times* a week ago cost \$50,000 a year just to maintain.

CHAIR WEISSER: Thank you, Mr. Peters. Please come up.

MR. NOBRIGA: Larry Nobriga, ASC. One of the big problems with this evidently is economic impact, and I'm just wondering, you're talking about 25 tons per day of HC and NOX here. With fifth and sixth year exemption, that puts four back, so your sum is going to be 21. If the entire state went on a biennial inspection program, basic areas, change of ownership areas and enhanced areas, what would be the sum of the HC and NOX removal there? And you wouldn't be impacting people every year.

CHAIR WEISSER: I can't answer the question.

MR. NOBRIGA: I don't know if anybody has looked at it that way.

CHAIR WEISSER: I know that people of looked at the notion of having a uniform program throughout the state. I have to say cars have this habit of moving from one place to another, and the notion of having different types of programs, testing programs, to me inherently doesn't make a lot of sense. However, there are areas where economically it just would not be viable for a test-only or a test-and-repair station to in Trinity County put in a dyno. I mean, you're going to get three people coming in or something. There may be reasons, there are reasons that they have decided to have separate programs.

MR. NOBRIGA: I'm not talking about changing the program in an area. If it's a two speed idle test in Trinity County, stay with it, but test them every other year.

There are vehicles out there that if I'm living in wherever in a change of ownership area, I buy a brand new car today. I die 30 years from now. (Inaudible)

And we're going to remove it. Most cars, as you say, travel, okay. What would be the effect going that direction?

CHAIR WEISSER: Perhaps Mr. Carlisle can shine some light on that.

MR. CARLISLE: I don't have a whole lot to shine on that at this point. I would agree with you, I think that vehicles in some counties, there's just not enough vehicles to test on a annual basis or a biennial basis. I think, too, the the thing that really requires a smog check is whether you violate the ozone standard, so if you don't violate the ozone standards, which (inaudible) you into a biennial Smog Check Program. You're going to get public outcry simply because they have clean air.

CHAIR WEISSER: Yeah, but thing there are things likes like air transfer.

MR. CARLISLE: Absolutely.

CHAIR WEISSER: And cars move from one area to other areas. It's a normal part of living. I mean, I understand the argument, Rocky, I just don't accept it.

MR. CARLISLE: I understand.

CHAIR WEISSER: Jude?

MEMBER LAMARE: Eighty-seven percent of the vehicles in California are in the enhanced program, so I think we're addressing most of it. One issue that came up recently that someone mentioned to me they thought was a problem is if someone drives into an enhanced area, they live in a basic area but they choose to have their smog check in the enhanced area, then why shouldn't they be required to have enhanced smog check, and apparently that would take a statutory change, something that is recommended to the committee to consider. It's a small thing, but if we're talking about these sorts of issues I would say that would be more important than trying to make the program the same statewide.

CHAIR WEISSER: Okay. Are there other comments from the committee members on this proposal? This is one that we may spend some real thought on, it's an important one.

Any comments from people on the web? Are there any e-mail comments that the executive officer would care to report to us?

MR. CARLISLE: There are two e-mails. In fact, they're both from GL Raver. First one -

CHAIR WEISSER: Could you spell that for the transcriber, spell that last name?

MR. CARLISLE: R-A-V-E-R. Says, "Have been listening all day. I am the second person to agree with Jeffrey. With further investigating the results will become clear that there is no difference in failure rates between test-and-repair and test-only.

"Have not heard anything on the way that cars are directed to test-only in my area code of 94536, which I am in. Eight out of ten of my customer cars are now going to test-only regardless of year. I am keeping the statistics if Jeffrey is interested. Could not get throw on the phone, what's with the phone number?"

Second one. "If these cars 15 years and older are polluting, they need to be fixed. BAR has no problem requiring the test-and-repair facilities to spend tens of thousands of dollars a year to keep up with technology and on the other hand worrying about a consumer spending a few hundred dollars. The failure rates and the integrity of the program are already greatly at risk with much of the input that has been gathered coming from the lobbyists that cars more about taking revenue away from test-and-repair put in by less reliable sources."

Needs some interpretation, I think. And that's the end of his e-mail.

CHAIR WEISSER: Thank you very much. I don't know if you can hear this, Mr. Raver, but thanks very much forgiving us your input.

MR. CARLISLE: I believe it's Gerald Raver.

CHAIR WEISSER: Okay, Rocky, I think it's time for us to move on to the next non-controversial item.

MR. CARLISLE: Okay. The next non-controversial item is item 11, annual testing of high mileage vehicles. This was another issue in the BAR/ARB report that high mileage vehicles such as taxicabs which travel as much as 58,000 miles a year have a tendency to pollute more than vehicles traveling the average of 15,000 miles a year. And what they found with taxicabs is that amounted to about .8 tons per day of hydrocarbons, but when you look at all high mileage vehicles, it equates to about 23 tons per day.

The problem with this recommendation is these vehicles are difficult to identify. As a case in point, the vehicles, the taxicabs, while they may have commercial plates, there is nothing on either the vehicle information database operated by the Bureau of Automotive Repair nor the Department of Motor Vehicles database that indicates these vehicles are in fact taxicabs, so that part becomes difficult.

The people that do identify these vehicles, however, are many of the municipalities. The City of Los Angeles, for example, does a very good job of tracking taxicabs, and I believe they're one of the cities that actually requires an annual test at this point, but it's not required by the state.

So, as a result of the analysis, the recommendations were to authorize BAR to require annual testing on high mileage vehicles and also to find the high mileage vehicle as twice the normal average miles traveled, which was also in the report. Include private fleets, government fleets and privately owned vehicles and allow the use of new technologies to exempt or allow motorists to opt out.

One of the those technologies I recommended in the report was a technology called Network Car. Network Car is a telematic device, if you will, that plugs into the data link connector of the vehicle's computer. This would work on 1996 and newer only. But it sends data electronically to a database, and any time there's a malfunction detected in the emission control system, of course it could alert for Bureau of Automotive Repair who could then alert the consumer they have X number of days to fix their car, so there's a number of ways that could be handled.

And finally, authorize consumer assistance for eligible motorists.

CHAIR WEISSER: Rocky. It's my understanding that virtually every taxicab in the state is regulated by some local government.

MR. CARLISLE: Correct.

CHAIR WEISSER: There are also high mileage vehicles used in airport shuttle transportation and limousine services and the like, and those are regulated by the California Public Utilities Commission as for-hire common carriers. The most difficult segment of the high mileage fleet will be not the police cars, not the big company fleets, it's going to be the traveling salesman or it's going to be the commuter who is driving 75 miles a day in each direction to get to work, and that's a problem.

I don't have any great ideas, but once again, I think this is an issue where you don't want the perfect to be the enemy of the good, and I think it is good to put forward a recommendation to attempt to structure a program to identify and bring in those high mileage vehicles that tend to be higher polluting.

I noticed you have some approaches, the subcommittee was wise enough to come up with some approaches that would allow both the older vehicles that have shown to be well maintained and have successfully passed a smog check, let's say, for a couple or three years under an annual program, to go back to biennial

testing. Is the same sort of thing being considered for this high mileage program?

MR. CARLISLE: It was discussed, yes.

CHAIR WEISSER: Is it —

MR. CARLISLE: To be honest with you, I don't have the recommendation in front of me. I believe it was one of the considerations.

MEMBER PEARMAN: The distinction there was, I mean, some of the high mileage vehicles are really driven a lot in each annual year, and so it would be a lot tougher to make that as a valid cut-off for determination, because, you know, yeah, it's nice that you were clean for two years, but you drive 50,000 or 100,000 next year too and the odds are that without proper maintenance you will no longer be in compliance, so we didn't emphasize it in this case as much as the other case.

MR. CARLISLE: I think that was more the emphasis for the Network Car type technology. I don't believe they're the only ones. I mean, GM has On Star, that would be similar deck Noel that could be used.

CHAIR WEISSER: I think we need to make it very clear here. As I understand, Rocky and I have had sidebar conversations on this during the last couple of weeks, that you're suggesting is high mileage vehicles might rather than going in to have their car tested annually could opt in,

voluntarily opt in to some sort of electronic device that would be triggered were their car to go out of compliance, thus save them potentially a trip at the cost of having to install this sort of device.

MR. CARLISLE: Absolutely, especially if it's a commercial vehicle. And the argument could be from some that, well, it's only looking at OBD II so there's going to be some emissions losses, but in fact, this is an emissions test that's done ever every day. It's not not done once a year or once every two years, it's done every time they turn their car on, so whatever you might lose from the other side, you'd certainly gain from this perspective.

CHAIR WEISSER: John?

MEMBER HISSERICH: Yeah, there's a few points on that. Just go back do the cabs for a moment. The one I was in last night from airport was four years old and had 306,000 miles on it. It's interesting, it's regulated – because I asked the driver out of airport, I didn't tell him why I asked him, but it was regulated through the airport that they have to replace the vehicle every five years or when there's 350,000 miles on the car. The light was not on, so at least he shut it off, I don't know.

But my point is, and you said this, but I think that the cabs clearly are one that we can get it. And I hadn't thought about it, but you're right, the shuttle vehicles.

Now a lot of entities and agencies, you know, United Parcel has changed almost all of their trucks to natural gas, I believe, they've done this alternate fuel. So, you know, there is this kind of carrot-and-stick type of approach.

I think this thing that you describe here, this network, for example, is that something that as police cars were brought into the yard when they go through their briefing before the cars go back out, could that be connected to the cars at that juncture and make a determination of the status of those cars, or how does that work? Because that kind of things seems to me to be feasible for that setting.

MR. CARLISLE: I'm sure it would be feasible, that's not what it was originally set up for. I'm sure it could be adapted for something like that.

MEMBER HISSERICH: Well, that's what I was thinking for something like that where, I mean, those cars come in and they're there for an hour while their booking they're doing something, they could plug it in and see what the status of that car is. I haven't looked at the mileage on police vehicles, but I'll bet you it's up there obviously because they're virtually 24/7.

And how to ultimately get to the private vehicle, as you say, we may not get all the doors closed, but there seems to me to be a number here that we could work on that would be the kind of thing that's in the public interest for agencies to adopt. I mean, how would they fight it, really? I mean, they might, but, you know, it seems to me that it's so clearly in the public interest that if they have vehicles, especially if can demonstrate to them, look, if the vehicles are in compliance, you maintain them and they're operating within specs, fine, you're just running the cars and doing the right thing.

Anyway, it just seems to me to be something we do need to pursue, it seems logical. And if the '96 and up vehicles, which many of these are going to be, if all of those devices work the way that we think they were intended to work, then they shouldn't have huge repair costs and so on associated with keeping them in compliance.

MR. CARLISLE: There's actually a pilot currently running with the Bureau of Automotive Repair with taxi fleets in Southern California. So —

SPEAKER: I'm sorry?

MR. CARLISLE: I said there is currently a pilot fleet that is southern California.

CHAIR WEISSER: These transmitter things?

MR. CARLISLE: Yes.

CHAIR WEISSER: Bruce and then Robert.

MEMBER HOTCHKISS: I'm curious. In the private fleets some of them do self testing, they are test-and-repair stations. Has this been taken into consideration? I mean, obviously it creates somewhat of a problem. It's hard to know now if they're actually performing adequately. Some of them I'm sure are much better than others. Has that been looked at and how it's going to effect requiring it every year?

MR. CARLISLE: No, we didn't consider that, to be honest.

CHAIR WEISSER: It's kind of a, it seems to me Bruce, it's really striking at a separate issue and that is should the fleets be allowed to be doing their testing outside of the for-hire private sector side, and if that's an issue that maybe we need to address on its own if you feel it's a significant issue.

I have not heard from the agencies that they view it as a significant issue, but I don't know.

MEMBER HOTCHKISS: Yeah. And I have a question on this Network Car because I'm not really familiar with it. Does it send out like test signals? I mean, if you plug it into the OBD II connector, could somebody just unplug it and because it never received a fault signal that it would be clear or does it send out like a test signal to say I'm operational?

MR. CARLISLE: As I recall, it sends out a signal every time you start the vehicle. And it sends out what they call PIDs or parameter identification.

CHAIR WEISSER: Rocky, I wonder if you could just get us some of their PR.

MR. CARLISLE: Absolutely.

CHAIR WEISSER: I'd like to see what -- and I think other members of the committee are kind of curious. This is the first I've heard of this and we need to be educated.

MR. CARLISLE: Okay.

CHAIR WEISSER: Mr. Pearman?

MEMBER PEARMAN: From day one I've been a bit disappointed that the information we have doesn't have a good way, it seems to me, of articulating the interrelationship between the various factors and how they affect the emissions that are being saved. You can raise and lower cut points or increase or decrease the CAP repair money or speed up or reduce can the inspection frequency, and it would be nice if there was some way to articulate how those things interrelate and can have effect on emissions reduced.

And these items here like 10 and 11 also point out the high mileage vehicles, a lot of them are probably older so won't they be inspected annually anyway on the other program that we're

recommending. And as Dr. Williams pointed, maybe through change of ownership they're getting annual inspections anyway.

So you probably in this case mislead if you say if you say we'll save this much from item 10 and this much from item 11. Isn't that double counting?

And I guess we felt before, while it's not that big a deal, but I'm concerned that we may be missing – miscalculating greatly now, and so I wish before we implement some of these changes, we probably need the subcommittee or ARB to look a little more carefully at these numbers and look at all the recommendations so that we don't overcount or double count or miscount because they do interact and interrelate.

CHAIR WEISSER: I think we need to actually note that, and in the edits I've done, Rocky, and I've gone through all the ones that you've given me and I didn't get a chance to call you and go through them. Yesterday Rocky and I spent hours on the phone on these. I indicated almost the same thing is the interrelationships and the potential double counting. The least we can do is acknowledge that there could be double counting.

However, in this particular one it's unlikely that high mileage vehicles are also older vehicles. The average mileage vehicles are driven drops rather routinely for each age, and the older vehicles, thankfully, are driven on the average much less. That's on the average. There will be someone's 25-year-old

clunker that they somehow are nursing for 35,000 or 40,000 miles a year each and every year. I think those are few and far between.

MR. CARLISLE: I think, too, in the case of high mileage, the mileages we're talking about, these things are dying before they ever hit 15 years old. They're worn out, I mean they don't even run. Because you look at the taxicabs in five years, if they've got 300,000 miles, that exceeds the life of most of these vehicles.

CHAIR WEISSER: And you're talking about defining high mileage as about twice the average fleet mileage to over 25,000 miles a year.

MR. CARLISLE: Right.

CHAIR WEISSER: Now, I think you can indeed see a car with wonderful technology coming out of Detroit and Japan and Korea and wherever else they're making cars, 150,000, 250,000 miles on a car now is not unusual as it was —

MR. CARLISLE: Not at all.

CHAIR WEISSER: So I think your point is well taken, but I still think the annual mileage, the data that I've seen shows very regular and rather steep downturn as the car ages.

Okay. Are there other questions on the part of the panel on this one? Not an uncontroversial issue. We'll now, if

we could, go to public comments. Are there any comments from the public?

MR. SAITO: Dean Saito, South Coast AQMD. I would just note that the taxicabs is a very important category for the district in a sense that we have a rule that incentivizes purchases of alternate fuel taxicabs down to \$10,000, but I do now know that taxicabs, originally they start out at 100,000 miles because they buy the used police vehicle, and so they start out at 100,000 miles, when they first are converted into taxicabs, so they buy them at August from police departments.

CHAIR WEISSER: Wow. And those cars, the police cars, of course, you look at the mileage, it's one thing, but half of their usage is they're idling while [deleted] and that's wear and tear on the engines and emission control systems and whatnot. And that's when they're going – yeah, please delete that from the record. I don't want any more speeding tickets.

Okay. Further comments from the audience?

Mr. Peters?

MR. PETERS: Mr. Chairman and I&M Review Committee, Charlie Peters, Clean Air Performance Professionals here representing motorists. I believe finding out about Network Car is a matter of just typing that in on your search engine and I think you'll find many hundreds of hits. Experience in the industry is that those kinds of systems, you can download a

little computer program in a laptop and get that system to tell you anything you want it to tell you, so anybody who is going to use that as a basis for whether or not their car is in compliance, it's a very simple task to make those cars always show in compliance and never fix anything no matter how bad it runs. So that's an interesting approach.

I think you'll also find that the Bureau of Automotive Repair has approved that system, and anybody can use that and be excused permanently from smog check forever already, so that's pretty interesting.

The issue of all of these great methodologies for saving the public money and so on and so forth came out of the (inaudible) Bill was the first place that that was orchestrated, and I noted at the time that the contractors wishing to do business and confiscate the market in California were in favor of those bills – that bill, which had the CAP in it and all this taking years out of the program and all this fancy footwork, the contractors were in favor of it and I called a significant bureaucrat for the State of California and I says I don't understand this. Where's the benefit to the contractors?

He says, 'Charlie, you got to think about it.'

I go, 'Well, I have. I've read it. I've read it thoroughly. I cannot find why these policies are being supported by the contractors wishing to confiscate this market.'

'Well, Charlie, you got to break it to confiscate it.'

So that's what it appears to me as though we're doing here, we're making sure that it's broken, sure that it's full of fraud and cheating, sure that we can destroy small business in California for the benefit of carpetbaggers coming here to confiscate the public's cars and you guys are leading the band and I don't like it.

CHAIR WEISSER: Thank you, Mr. Peters.

Further comments or questions from the audience? Good. We're going to take a ten-minute break, and we'll see you back at 3:22.

(A brief recess was taken.)

CHAIR WEISSER: Please take your seats, we're going to come back into order. Okay. The committee is now back in session. I should say the meeting is back in session.

MR. CARLISLE: Before I talk about off-cycle testing of smoking vehicles, it's been requested to repeat the pass code and the telephone number for those that may want to call in. So once again, the telephone number is 1(888)829-8669, and the pass code is 59040. The leader's name is Rocky Carlisle.

CHAIR WEISSER: Thank you.

MR. CARLISLE: Okay. The next item then. Suggested in the ARB/BAR report was the idea of off-cycle testing for smoking vehicles. Currently the program does not include any type of

smoke test. As a example, the smoking vehicle can actually go into the smog check station under go a test and pass that test successfully, even though it may be blowing out or just billowing out smoke because of the type of smoke created by burning oil as opposed to gasoline.

In addition, smoking vehicles violate Section 27156 of the California Vehicle Code, and any violation of that requires that the vehicle be taken back to a law enforcement officer to have it visually inspected. And it's estimated that smoking vehicles contribute about 1.6 tons per day of hydrocarbon and NOX to the atmosphere.

Just a funny little note. It was discussed in the subcommittees that, you know, nobody gets a citation for a smoking vehicle, because there's very few issued in the State of California. About two days after the last meeting I got a phone call from my son. He got a ticket for 27156 of the California Vehicle Code. So this is only one vehicle, but it will be a study of one because I intend to follow this through the process and what it takes to get it to pass.

CHAIR WEISSER: The chair's comment is justice is served.

Okay. Well, I think this is a very straightforward issue. The recommendations are listed up on the panel behind me.

The only question I have in the draft write-up of significance, Rocky, is you make a comment that BAR indicated that it would agree do a, quote, 'subjective,' unquote, type of test, and I want to make sure I understand where BAR is coming from on this.

Are you agreeing that you could perform and would support the inclusion of an Nevada-style test in the program? And Mr. Amlin, are you going to be coming up and sharing your wisdom or is Mr. Ross or are you going to defer? Chief Ross?

MR. ROSS: I'm reading. I don't see what you're repeating.

CHAIR WEISSER: Oh, it's not up there. It's in my — it's in our draft of the write up. I don't want mischaracterize where the Bureau is coming from. Would it be accurate to say that the Bureau believes that given appropriate time you would be able to perform, to have the system, the Smog Check system perform a smoke test similar to that which Nevada puts forward and that you would support the inclusion of a smoke check into the program as was recommended in the BAR/CARB report? And so the answer is yes; is that correct? Thank you.

Are there any questions or comments on the part of the committee? Mr. Pearman.

MEMBER PEARMAN: I just want to clarify because the draft report mentions 27156, but then in the background it

mentions 27153, so I wanted to see are they two different statues?

MR. CARLISLE: Did I misprint that?

CHAIR WEISSER: Yeah. These have some funny math that we'll talk about that offline.

MEMBER PEARMAN: But it is 6, right?

MR. CARLISLE: It was getting late when I did this.
Yes.

CHAIR WEISSER: It's 156, isn't it Rocky?

MR. CARLISLE: Yes.

CHAIR WEISSER: Thank you.

MR. CARLISLE: I will verify that, though.

CHAIR WEISSER: Comments from any other committee members? Comments from the audience? Mr. Trimlett.

Oh. Dick, excuse me, before Charlie, Mr. Ross?

MR. ROSS: (Inaudible)

CHAIR WEISSER: Oh.

MR. TRIMLETT: Len Trimlett, smogrfg. Hurrah, hurrah, hurrah.

CHAIR WEISSER: Thank you, Len.

MR. TRIMLETT: Finally we agree on something. I have said for quite a long time I support a smoke test arrangement such as the Nevada test. I've read what they have through the

DMV site for Nevada DMV, and I think it would be fantastic to implement such.

Just for your information in case you're not aware of it, last year, I believe it was, Senator Dean Flores passed SB 708. Essentially, the nature of that was that when you implement a drunk test on the county highways you can also include a smoke test. That is in the bill, that what that bill was about. The only problem with the way that is worded is that usually you have an alcohol test at night, whereas a vehicle inspection test, you want that to be during the day when you can see the actual vehicle. That's the only problem with that bill. But it does exist. I just wonder if that SB708 had been considered, but I would say hurrah, hurrah, hurrah, I would support a Nevada-style smoking vehicles bill.

CHAIR WEISSER: Thank you. I'm so sorry Mr. Ross, Chief Ross.

MR. ROSS: Dick Ross, Chief, Bureau of Automotive Repair. Just a point for clarification, Mr. Chairman. As the position is stated in the draft ARB/BAR report is what I am affirming to, and I'm presuming that Mr. Carlisle has reflected that in the same way. Your verbalization of it, candidly, I didn't have my report in front of me to say that your verbalization was identical to what was in the BAR and ARB report.

CHAIR WEISSER: I can assure you that it's not. We've gone further. We had some other kind of – in the entire recommendation we had some things that are not specially included in your report, and what I will do is ask Rocky after he and I have a conversation and do a little editing to send you over a copy of this to make sure that we're not misrepresenting where the agency is coming from.

MR. ROSS: I'm sure you're not.

CHAIR WEISSER: I know we're not misrepresenting the intent, I just don't want to –

MR. ROSS: I'm just trying to acknowledge here that the report may be slightly different than what you are asking relative to a position you might like to see advanced, which may be a little more or less than what BAR and ARB are saying.

CHAIR WEISSER: It is a little different, and I want to –

MR. ROSS: Okay. That's what I wanted to say.

CHAIR WEISSER: That's precisely why I raised the issue, Dick.

MR. ROSS: Okay. That's why I wanted to clarify it (inaudible) two positions from BAR which doesn't lend itself to clarity.

CHAIR WEISSER: Chris?

MR. ERVINE: Chris Ervine, Coalition of State Test and Repair stations. I'm in favor of smoke test. The only problem that I see with it is it's an objective test.

CHAIR WEISSER: Subjective.

MR. ERVINE: Subjective. Thank you for the English lesson. But so the difference is that one technician may pass it and another may not, and that's going to be the difficulty in overcoming it.

CHAIR WEISSER: I agree, Chris. And once again, I think it's the don't let the perfect be the enemy of the good. I think it's a step in the right correction. If you had some sort of very inexpensive reliable objective test that would be superior, but this is no such thing at this point in time. You know, cheap and objective, that would make it difficult.

Are there any further comments from the audience? Hearing none. So we've additional time, Len, to be move on to other issues. Perhaps you could hold our comment and give it to us in the next go around? Okay, appreciate that. We want to try to get done on time and if we can bunch your comments it might be helpful.

Mr. Carlisle, next item?

MR. CARLISLE: Okay, next item is exempting two-year and newer model year vehicles from the change of ownership. And

the issues, as the ARB/BAR report states, it saves the consumers about 15 million annually.

CHAIR WEISSER: Could you speak a little bit more directly into the mic or pick it up?

MR. CARLISLE: You bet. It saves the consumer about 15 million annually, however, it costs the smog check stations about the same amount. But the report does not address the increased fail rate for OBD II, that was a concern of the subcommittee.

As an example, the data used for the analysis was done in 2002 prior to the ramping up or actually the decreasing of the number monitors allowed to be set to not ready. So when you look at the data, as I recall, it reflected about a two percent fail rate, but as you go into 2004 it goes as – it average actually for the first six model years about four percent with the highest being six percent, and so that wasn't considered in the write-up.

The biggest problem here is there's no consumer protection from some unscrupulous sellers of vehicles. The vehicle can be sold in a poor state of emissions configuration, and this is absolutely no protection at all. But in spite of that, SB1107 went the next step and exempted four-year and newer model year vehicles from the change of ownership inspections.

There's no – we didn't finish the analysis yet of what it would save or could save the consumer, but it could be a significant negative impact on the consumer buying a new vehicle,

but the recommendations at this point was to seek alternatives for consumer protection on the sale of a vehicle, and some of the ideas, for example, were to require OBD only inspections for two years old and newer, that's some protection for those vehicles. And for the most part, those vehicles will still be under warranty, so it shouldn't be a real issue.

The more problematic issue is over that they're no longer under warranty after about three years, so maybe require complete change of ownership inspection for vehicles over two years old.

CHAIR WEISSER: Well, as you can see, this item is still a work in progress. The concern here is that that the warranty for the emissions control equipment and the car warranty itself may, and in many cases will likely be expired at the time of vehicle sale in the third or fourth year. Thus, the new buyer might be not become aware of a substantial emissions control system failure until after year six, at which time can be socked pretty heavily for some expensive components repair or replacement.

We're trying identify an approach that will deal with this issue, recognize the fact that these vehicles really are still relatively unlikely to fail, but an unwitting consumer could face some real problems if they were dealing with someone who had disconnected the on-board diagnostic mill light or done

some other thing to reset the codes of the mill light. You could have no idea that you have a serious problem. So we are going to try to come forward with a couple of alternatives for your consideration to try to mitigate the consumer impact. I think this may be less of an emission issue than a consumer protection issue, quite frankly.

MR. CARLISLE: Absolutely.

CHAIR WEISSER: Any comments from the committee or reactions? Mr. Hotchkiss.

MEMBER HOTCHKISS: It seems to me that in as far as used car sales go that there is consumer protection issues already. If I'm not mistaken, currently, the smog certificate with a used vehicle, at least through the dealer, stays in effect forever until it's sold, so you can have a vehicle that was smogged a year ago, 18 months ago, as long as it stays in the dealer inventory, that smog certificate is valid. A consumer could buy a vehicle now and not find out until two years down the road that it wasn't in compliance.

It is something difficult to go after the dealer because it's hard to prove what shape a vehicle was in prior, but there are still laws, I think in the Vehicle Code that says it's against the law to sell a vehicle that isn't in compliance.

MR. CARLISLE: Oh, sure.

MEMBER HOTCHKISS: There are some consumer protection laws in there. I think the enforcement value of them is perhaps a little weak, and I'm not sure other than requiring vehicle to be smogged at the time of sale, I'm not sure how to get around it anyway.

CHAIR WEISSER: Rocky, I think that the report needs to identify the consumer protection laws that are in place that Bruce is referencing and do an analysis of whether or not those have any bearing. I don't know if those consumer protection laws apply only to dealers or whether also private party sales, but you raise a good point here.

MR. CARLISLE: Okay.

CHAIR WEISSER: Any other comments? Comments from the audience? We'll start with Len.

MR. TRIMLETT: Len Trimlett, smogrfg. The best way to provide consumer protection is don't exempt those vehicles, period. Thank you,

CHAIR WEISSER: Thank you. Any further comments from the audience? From the ether?

I want to emphasize the other issue that this raises that Rocky mentioned in passing, and that was the estimated number of failures that might occur to this group of cars was based upon data that allowed how many OBD II failures? Five, Rocky?

MR. CARLISLE: I think it was five, yes.

CHAIR WEISSER: Remember earlier today, Jude, we were talking about this OBD and how many of the eleven systems were allowed to fail? So when they did their analysis in their report, they did it on a fleet of vehicles that allowed failure of five of the eleven monitors yet still would pass the vehicle. That's changed now to two, and Rocky infers that the failure rate in this group of vehicles could be as much as twice as high as that predicted in the BAR/CARB report, and I thought that was very insightful and helpful. And thank you, Rocky.

Okay, next item?

MR. CARLISLE: Okay. The next item is item 14, and this has been put on hold. It's actually improving station performance through tighter after repair emissions cut points. The Air Resources Board has been doing an evaluation on more specific vehicle cut points, and that was going to be available toward the end of summer. I don't know that the status of that report is yet, but that was supposed to address in part this issue that instead of having tighter emissions repair cut points, you could actually be more specific on the cut points for that vehicle and accomplish the same thing.

CHAIR WEISSER: So that one, as you say, is on hold?

MR. CARLISLE: Yes.

CHAIR WEISSER: You have that on the PowerPoint as item 14, and item 15 is another station performance improvement item, Rocky, increase enforcement, blah, blah, blah.

MR. CARLISLE: To be honest, we haven't taken that far enough yet to come up with any recommendations.

CHAIR WEISSER: Fine. I just wanted to make sure it was recognized that it was missing. Item number 16.

MR. CARLISLE: Item number 16, I simply put up there, it won't come up on the slide, but essentially that's been resolved now. The 30-year rolling window can is no longer effective next year with the passage of AB2683.

CHAIR WEISSER: Jude Lamare, who is a member of the subcommittee, has prepared a draft, which Rocky can is now in the process of trying to configure into a standardized format. We'll talk about that a little more in a moment and will be able to pass out to the committee very shortly

Are there any comments on this? You have a questioning look on your face, Tyrone.

MEMBER BUCKLEY: I'm sorry, I didn't know what was used to prepare and was a little confused about that in regards to AB2683?

CHAIR WEISSER: I'm sorry?

MEMBER BUCKLEY: I don't no what Jude's to prepare on that.

CHAIR WEISSER: Oh, Jude did an analysis of the issue, frankly lifting an awful lot of what we did on our analysis on the 30-year exception. And Jude, do you want to respond?

MEMBER LAMARE: Thank you, Mr. Chairman.

I did not do an analysis, I did a lot of plagiarism to prepare pages of our report, something that we could work on that would bring us all up to date on the 30-year rolling exemption. So what has happened with AB2683 and how that affects our committee, it's done.

CHAIR WEISSER: The committee will note that plagiarism is the most sincere form of flattery.

Mr. Carlisle?

MR. CARLISLE: Okay. One of the last items was the final report format. The chairman and I have discussed this little bit one day and I added to it a little bit, but what I was thinking was section one would be an executive summary and overview of the committee's reports. Section two would be the itemized reports and responses to the ARB/BAR report. Section three would contain the comments from the public, the industry and state agencies.

CHAIR WEISSER: These would have to be written comments, Rocky?

MR. CARLISLE: Correct. And finally section four would be the appendix for any required references in the report.

CHAIR WEISSER: What does that mean? I don't quite understand.

MR. CARLISLE: If we do any further analysis, for example, that we want the references in the report, maybe from another document, for example, or referring to the Nevada test, that type of thing.

CHAIR WEISSER: Any comments or suggestions from the committee on that?

MEMBER HISSERICH: That thing that you described that network business, would that maybe be some reference to that, for example?

MR. CARLISLE: Absolutely. Sure.

CHAIR WEISSER: Robert?

MEMBER PEARMAN: Just a comment on the ARB report in general, or question. Since they issued their draft, the Legislature has taken action that it seems clearly has added to the emissions inventory. And the reporting requirements (inaudible) the ARB/BAR report should discuss how to achieve the necessary emission reductions to attain air quality standards. And also another statute they have to include specific recommendations addressing any discrepancy between emissions achieved and those in the SIP.

So one could argue that if we did nothing, that their report already, the discrepancy is widened, and so don't they

have an obligation therefore to come up with additional savings in their report, so it's kind of a question whether BAR and ARB see it that way or they just think that the Legislature mandated it so they don't have to do anything and throw up their hands or they're waiting for us to come up with ideas, they think the increases are insignificant that they don't have to deal with. I'd like some kind of thought about what they're thinking. Are we going to get new and additional proposals to make up the gap or are they just going to act like nothing happened?

CHAIR WEISSER: If you know, Mr. Carlisle?

MR. CARLISLE: I do not know.

CHAIR WEISSER: If we have a representative here from the Bureau of Automotive Repair or Air Resource Board, I'm open to hearing a response to this.

MS. MORROW: Sylvia Morrow, Air Resources Board. As far as what we plan to do with those discrepancies when we did the report, it was to, at least in the draft form, present some options to Legislature, and even though taking the five and six-year out happened, there are items that did happen that were in that report that compensate for those emission reductions such as eliminating the 30-year rolling exemption, so I'd say we're going to have to reevaluate how we're going to do that, and it wouldn't be my call.

CHAIR WEISSER: Well, would you be able to alert Tom that the committee would be interested in knowing at its next meeting or before via letter if there is an intention by ARB or BAR to modify or update the draft report to reflect the actions that the legislature has taken or other actions that might have impacted the fundamental basis of the report?

MS. MORROW: Yeah, I'll convey that to Tom.

CHAIR WEISSER: Thank you.

Would you follow-up on that, Rocky, with a little note?

MR. CARLISLE: Yes, I will.

CHAIR WEISSER: Jeffrey?

MEMBER WILLIAMS: I have a question about the proposed outline which makes much sense, but I wanted you to elaborate on what you're imagining for section three, comments from the public and industry. Are we restricting the comments to something that we have said in section two (inaudible)?

MR. CARLISLE: No, absolutely not. My thought was basically to include any written comments, you know, just copy those written comments and include them in the report so that the reader, you know, could see the pros and consumer right off. I don't know how the committee feels about that, and that's why we're talking about it now.

MEMBER WILLIAMS: Well, I feel it should be focused on the items we're discussing and not —

MR. CARLISLE: Oh, absolutely. It wouldn't be a free-for all, it would just be the items that were covered in the report. Anything in the report, if there was a comment on it. If it was something about B-52 emissions it wouldn't be included in the report.

CHAIR WEISSER: I'm not understanding how you could exclude any comments made under the guise of commenting on the report. I don't think we should be putting ourselves in the position of trying to sensor and identify this is related or this isn't related. I think we'd be safer including each and everything that we receive in writing from the public, Jeffrey. I don't want to be in the position of deciding that one or another comment is or isn't related to the report.

MR. CARLISLE: Okay.

CHAIR WEISSER: That's my sense, but I don't decide that, we decide that as a group. Is there direction of the committee? Robert?

MEMBER PEARMAN: When EIR is represented, you actually do include basically every comment and you often respond to them all. I would think that, unless it makes it too bulky, that we do certainly include all comments. We may not decide to respond to certain ones in any specificity in a sense because we think it's way off base or is not relevant, but I don't see the harm in including them unless they're slanderous or vile or something of

that nature. But as long as they generally relate to the program, to emission reductions, because that after all is the overall theme of the ARB report which we're responding to in part.

CHAIR WEISSER: And I think for the sake of the reader, we are allowed to provide a limit to the number of pages. I would be hesitant to include as comments five inches of letters, for instance, that might have been written over a 20-year period, so I think we can legitimately say to the public please ensure that your comments do not exceed ten pages in length, single space, 10-point pica typeset so we don't get microtype or something like that.

John?

MEMBER HISSERICH: Just to that point, have we established a format in which we've conveyed to the public other than here now that we are soliciting comments? I can anticipate a few members of the industry might and a few other folks might, but make sure that we get broad participation from people who might.

MR. CARLISLE: We've had comment on that since the first webcast we've done. We've solicited comments from that. When I send out the notices for the meetings I've solicited comments there. So yeah.

MEMBER HISSERICH: And have we compiled some thus far?

MR. CARLISLE: Yes, we have.

CHAIR WEISSER: I think what we're going to be having to do to be fair to the public and to ourselves to make sure we get the best quality comments is, when we issue a draft report, we're going to give the public and the agencies X number of days, 30 days to give us written comments. And it's at that point in time that we can send out a blast notice on the system, we can do a bunch of things to alert stakeholders that the comment period has started and when it's going to be and what format we're interested in seeing the comments in. I think we have to do that above and beyond the generalized requests that we've had.

MEMBER LAMARE: And let's make sure that we get comments from the major air districts in non-attainment areas, please.

MR. CARLISLE: Okay.

CHAIR WEISSER: Give them the opportunity. I was really pleased to see the South Coast District here today. They are the, in my opinion, the leading air district in terms of achieving California emission reductions and have much to be proud of for the work over the last 30 years.

Chris?

CHRIS ERVINE: Is there a deadline?

CHAIR WEISSER: Step up, Chris. Oh, I'll repeat. Chris's question can be, is there a deadline for the comments? There is no deadline now. We can't set a deadline until we issue you a draft report, and at that point in time we'll give you the appropriate number of days.

Okay. Let's move on, Rocky.

MR. CARLISLE: Okay. With regard to suggested time line, I tend to be forever the optimist.

CHAIR WEISSER: That makes one of us.

MR. CARLISLE: And so what I'm suggesting is that the November 23rd meeting that we review and approve the draft report if at all possible. Subsequent to that meeting we'd submit the draft report to the Department of Motor vehicle, the highway patrol, Air Resources Board, BAR, DCA and the State and Consumer Services Agency for comment, and I will add the air districts to that, Jude.

MEMBER LAMARE: Okay.

MR. CARLISLE: And then they would have 30 days to respond.

By January 11th we should have all the comments. A couple of options here. We can either review them and consider any changes. If there's no changes required, then we could submit the report, approve it and submit it to the legislature. Or if we have to go back, then it would be released on

February 22nd. But the first part of February is probably the cut-off for legislation being submitted, so January might be a better date, if we can at all do it.

CHAIR WEISSER: Are there any comments on the proposed or the projected schedule? Rocky's proposed schedule would have us issuing a report next week, but his projected schedule is sadly more realistic.

Mr. Pearman?

MEMBER PEARMAN: Well, I guess I would just maybe like to know maybe in November how particularly ARB and BAR see that, because once we approve it, it has to to them before – hopefully, they'd want to carry some legislative action that reflects our comments, so if they seriously have in mind doing something for next year (inaudible) then we should discuss with them are they really looking forward to pushing a bill. That way we know we'd want to try and get it out to them in January so that they can move in February. If they think they're going to take another six months to act on it, then we'll have a different response perhaps.

CHAIR WEISSER: Recognize that they will have the benefit, quote/unquote, of our thinking in November that would allow them to factor that into whatever legislative proposals are going through their system. And knowing the state, they probably already are in the process of drafting and submitting through the

chain of command their anticipated legislative agenda for next year. We're hopeful that the nature of these meetings allows and informs the agencies of the thinking at least at this time of the committee.

I guess the one thing that I've noticed today, I'm trying to put a wrap around this, the one thing that I've noticed today is that there hasn't been a great deal of disagreement on the general direction the specific recommendations are going. Now we are missing some crucial and key members of the committee, and it's my hope that Rocky will be going through each and every item that we've discussed today to let the committee members that aren't here kind of know where things went, because we need to make sure we're aware of disagreements. And disagreements are not going to be discouraged, but we need to be aware of where there are differences and where we need to beef up what work we have or beef up our conversations.

The other thing that I will note in the schedule is that the month of December has disappeared, and that's because —

MR. CARLISLE: That was going to be my next question. If the committee wants to at this point in time cancel that meeting or do you want to hold that open, because currently the schedule is a teleconference allowing those that are in southern California the ability to just meet down there and avoid the travel during the holiday season, or cancel it.

The problem is, even if we approve, even if the committee approves the report in November, that does not give the departments enough time to respond before the next meeting. Added to that, it's the holiday season, so it's even less likely.

CHAIR WEISSER: My belief is that meeting following the release of the report needs to be a regular meeting where we're all together. I just don't think we can have the kind of conversation in that truly key meeting when we're getting the feedback from the public, the feedback from the agencies, we need to have time to hear what folks have to say. We've thrown out some issues that are going to stimulate quite a conversation, particularly from the industry, both test-only and test-and-repair, particularly from the agencies in terms of some of our modifications, shall we say, or enhancements on their recommendations, and I think we need to be here to hear that as a group.

So it would be my recommendation that indeed we cancel the December meeting and that we try as hard as we can to make sure we get complete and full attendance in January. So I'm going to take that as a motion to make sure we're not doing something arbitrarily, so I'm going to move that we cancel the December meeting. Is there a second for the purposes of discussion? Seconded by Mr. Hisserich. Is there any discussion on that? Mr. Williams.

MEMBER WILLIAMS: You really do intend to make November 23rd a deadline, don't you? Okay.

CHAIR WEISSER: So noted. Yeah, I want to push this thing through as best we can. If you can't complete the analysis in time for us to get it out in this phase of the report, and I aim this at you and at Jude because I think those are the two that are going to be the most difficult can to bring to closure, and I think we go out with what we have as a report and we come back a month or two later with a final phase. Maybe we have to do that. I'd rather not, but maybe we have to do it.

MR. CARLISLE: Or some supplemental report.

CHAIR WEISSER: Or a supplemental report.

MEMBER HISSERICH: Is January 11th the date that the January meeting is scheduled?

MR. CARLISLE: I believe so.

MEMBER HISSERICH: Okay. And then February 22nd. I just want to make sure.

MR. CARLISLE: Right.

CHAIR WEISSER: Are there any other discussions on the motion to cancel the December meeting? Hearing none, all in favor say aye.

IN UNISON: Aye.

CHAIR WEISSER: Are there any opposed? Okay. We're not going to have a December meeting.

Is there any other business, Rocky, that needs to be brought forth before we adjourn at 4:00 o'clock?

MR. CARLISLE: No.

CHAIR WEISSER: Are there any comments from the public that they'd like to make before we adjourn at 4:00 o'clock? Hearing none, with my fervent wishes to you all for a joyous period of time until our next meeting, this meeting is adjourned.

(Meeting Adjourned)

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Dated November 4, 2004.

TERRI HARPER, Lead Transcriber
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